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Attorneys for Plaintiff
Ted Entertainment, Inc.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

TED ENTERTAINMENT, INC., a California Corporation,

Plaintiffs,

v.

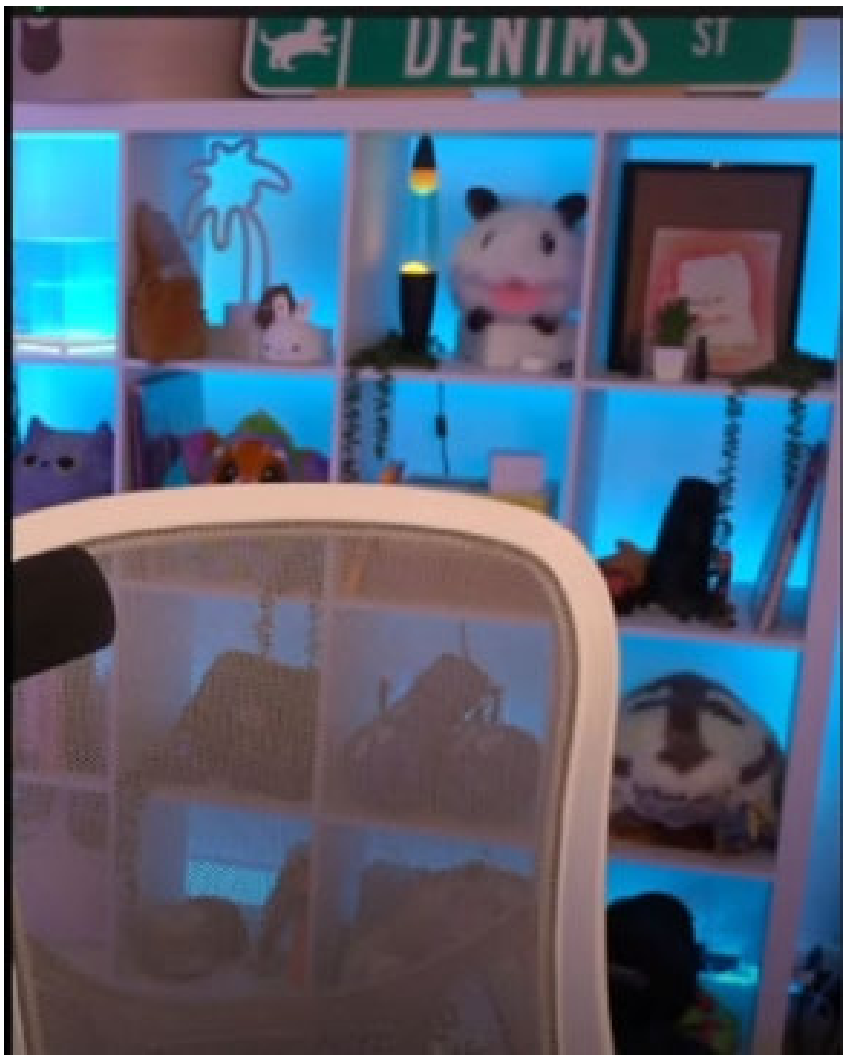
[redacted]DENIMS, an OES 1-10

Defendants.

Case No.:

COMPLAINT

JURY TRIAL DEMANDED



The Nightmare on Denims Street

"We're relying on you to stay live so we don't have to give the Nuke views. Yeah, I'm gonna stream it. Since he's confirmed it's coming out today, I'm gonna stream it." – Denims Prior to Reacting to *Content Nuke: Hasan Piker*

"Well guys, if you enjoyed not giving any views to that terrible video, [give me a] follow, subscribe, throw a prime if you like [my] content."

- Denims After Reacting to *Content Nuke: Hasan Piker*

I. INTRODUCTION

1. This lawsuit is about ending the practice of lazy reaction videos that copy entire copyrighted works and purposefully siphon views and revenue away from the original. Over seven years ago, the owners of Plaintiff Ted Entertainment, Inc. ("TEI") – Ethan and Hila Klein – established the legal standard for fair use reaction videos in *Hosseinzadeh v. Klein*, 276 F.Supp.3d 34 (S.D.N.Y. 2017). As a genre, reaction videos "vary widely in terms of purpose, structure, and the extent to which they rely on potentially copyrighted material." Reaction videos, "like the Klein video" that "intersperse ***short*** segments of another's work with criticism and commentary," constitute fair use.[1] In contrast, reaction videos that are "more akin to a ***group viewing session***" do not. *Id.*, at 40 fn.1, 45-47 (emphasis added).

2. This case involves a "group viewing session" hosted by Defendant Alexandra Marwa Saber f/k/a Marwa Talatt Abdelmonem p/k/a Denims ("Denims"). Denims specifically intended her "group viewing session" to siphon views and revenue away from TEI's copyrighted works: (1) *Content Nuke: Hasan Piker* ("*The Nuke*"); and (2) *The H3 Show #105: Countdown to Doomsday* ("*Countdown Episode*") (collectively, the "Works"). Denims timed her "group viewing sessions" to coincide with the exact moment TEI released the Works. Her timing was intended to capitalize on the intense public interest in the Works and siphon the maximum amount of views and revenue away from the Works to herself by showing the Works in their entirety (or nearly in their entirety).

3. The moderators of the H3Snark subreddit (the "H3Snark Mods") heavily promoted Denims' "group viewing sessions" as an alternative to the original Works on the H3Snark subreddit ("H3Snark"). As a direct result, Denims' "group viewing sessions" of the Works peaked at approximately 45,800 concurrent views – when her previous stream only achieved approximately 3,300. Denims greatly

[1] The Kleins' video from *Hosseinzadeh* was entitled *The Big, The BOLD, The Beautiful* and is available here: https://youtu.be/CXUs5FOo-JE?si=74MWM26Wn26KmO4o

profited from her "group viewing session" of the Works through advertising revenue, donations and paid subscriptions.

4. Like most lazy reaction videos, Denims peppers her "group viewing session" of TEI's Works with primarily brief and sporadic observations – which can be categorized as follows:

a. Most frequently, Denims will watch long, unadulterated portions of the Works and briefly pause to give short, surface-level and often repetitive observations that provide little to no "new information, new aesthetics, new insights or understandings" on the original Works. *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith ("Warhol")*, 598 U.S. 508, 541 (2023).

b. Other times, Denims' "commentary" has little to "no critical bearing on the style or substance" of the Works. *Warhol*, 598 U.S. at 510. Rather, she goes off on tangents regarding unrelated subjects or shadowboxes demonstrably false misrepresentations of the contents of the Works.

c. On the rare occasions when Denims does provide sporadic and brief commentary on the style or substance of the Works, she spreads misinformation that is refuted moments later by the Works themselves or by the most cursory level of research. On the rarer occasions where she actually shows the factual basis for claim, her statements are refuted by the cited source itself. Such misinformation fails to serve "copyright's goal of enriching public knowledge." *Warhol*, 598 U.S. at 531. To the contrary, such misinformation diminishes it.

d. Finally, Denims will even do an "empty chair reaction" (as shown above), where she goes off-camera for an extended period of time while letting the video play to keep her audience entertained.

5. The poverty of Denims' commentary – coupled with her highly commercial use of the Works that she specifically intended to serve as substitute for the originals – fails to justify copying TEI's Works in their entirety (or nearly in their entirety). Rather, Denims' "group viewing session" is a quintessential example

of copyright infringement – *i.e.*, the unauthorized exploitation of TEI's Works "to get attention [and] avoid the drudgery in working up something fresh." *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 580 (1994). This lawsuit is to hold Denims accountable for her infringement and the H3Snark Mods accountable for materially contributing to her infringement.

JURISDICTION AND VENUE

6. This action arises under the Copyright Act, 17 U.S.C. § 101, *et seq.*

7. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a-b).

8. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) because a substantial part of the acts and omissions giving rise to the claims occurred in this judicial district.

PARTIES

9. TEI is a California corporation with its principal place of business located in Los Angeles County, CA. TEI is a production company that produces content for social media, namely YouTube.

10. Denims is an online streamer who releases content on social media platforms, namely Twitch, and resides in Van Nuys, California.

11. The H3Snark Mods are comprised of Does Nos. 1-10. The true names and exact location of Does Nos. 1-10 are presently unknown to TEI, which therefore sues said Doe defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and exact locations when the same have been ascertained. Below is a summary of what is known about Does Nos. 1-6.

a. Doe No. 1 is female, the founder of H3Snark and one of the H3Snark Mods. She previously used the Reddit username "u/ozempicdealer" – which Doe No. 1 subsequently deleted. Her last post using this handle was on February 12, 2025. Doe No. 1 also uses the Discord handle "yoggiebearx" and the screen name "parishilton."

b. Doe No. 2 is female, resides in Canada and is the head moderator of the H3Snark Mods. Doe No. 2 currently uses the following Reddit usernames: (1) u/h3snarkmodteam2; (2) u/RomanPeee; and (3) u/Right_Salamander (currently idle). Previously, Doe No. 2 used the following Reddit usernames – which were either deleted by Doe No. 2 or suspended by Reddit for violating its Content Policy: (1) u/kavkav2 (deleted); (2) u/h3snarkmodteam3 (deleted); (3) u/Wrong_Salamanderr (deleted); (4) u/Right_Salamanderr (suspended); (5) u/PurePress (suspended); and (6) u/KitchenMukbangStar (deleted). On Discord, Doe No. 2 uses the screen names "Sally" and "allitern."

c. Doe No. 3 began as a user of H3Snark and was subsequently made an H3Snark Mod. Initially, Doe No. 3 used the Reddit username "u/sarahornejewetts" – which she subsequently deleted. After deleting this account, Doe No. 3 used the Reddit username "u/jewettsarahorne."

d. Doe No. 4's account name on Discord is "rozzwhalenm."

e. Doe No. 5 is male and goes by the name Tony. Doe No. 5 was made an H3Snark Mod. His account name on Discord is "frompu."

f. Doe No. 6 was made an H3Snark Mod. Doe No. 6's account name on Discord is "No_Reception."

g. Doe Nos. 7-10 are the remaining H3Snark Mods.

FACTUAL ALLEGATIONS

Background of TEI

12. TEI was founded in 2016 by Ethan and Hila Klein. The Kleins rose to prominence on YouTube with two channels, "h3h3Productions" (their primary channel) and "Ethan and Hila"[2] (their secondary channel). The Kleins created highly stylized reaction videos to other YouTube videos. The Kleins' reaction videos "intersperse[d] relatively short segments" of the original video "with long

[2] The "Ethan and Hila" channel was later renamed to "Hila Klein."

segments of the Kleins' commentary." *Hosseinzadeh*, 276 F.Supp.3d at 40. After TEI was established, the Kleins assigned both channels to TEI.

13. In 2016, the Kleins were sued for copyright infringement, defamation and misrepresentation under 17 U.S.C. Section 512(f) by Matt Hosseinzadeh p/k/a Matt Hoss/The Bold Guy ("Matt Hoss"). The copyright claim concerned a reaction video uploaded to their "Ethan and Hila" YouTube channel. The video, entitled *The Big, The Bold, The Beautiful* (the "Klein video"), was a critical and humorous reaction to Matt Hoss' video, *Bold Guy vs. Parkour Girl* (the "Hoss video"). As the Court in *Hosseinzadeh* explained:

> The Klein video opens with commentary and discussion between Ethan and Hila Klein, followed by segments of the Hoss video which they play, stop, and continue to comment on and criticize. The Klein video, which is almost fourteen minutes long, intersperses relatively short segments of the Hoss video with long segments of the Kleins' commentary, ultimately using three minutes and fifteen seconds of the five minute, twenty-four second long Hoss video. The Klein video is harshly critical of the Hoss video, and includes mockery of [Matt Hoss'] performance and what the [Kleins] consider unrealistic dialog and plotlines. In addition, defendants' commentary refers to the Hoss video as quasi-pornographic and reminiscent of a "Cringetube" genre of YouTube video known for "cringe"-worthy sexual content. As critical as it is, the Klein video is roughly equivalent to the kind of commentary and criticism of a creative work that might occur in a film studies class.

Hosseinzadeh, 276 F.Supp.3d at 40 (footnote and internal citations omitted).

14. On August 23, 2017, the Court granted summary judgment for the Kleins on all of Matt Hoss' claims. *Hosseinzadeh*, 276 F.Supp.3d at 45-48. For the copyright infringement claim, the Court found the Klein video made a fair use of the Hoss video.

15. In 2017, TEI established *The H3 Podcast* channel on YouTube. On the new channel, TEI produced podcast episodes that were less structured than the reaction videos the Kleins previously made. To ensure any use of unlicensed copyrighted content qualified as fair use, TEI formulated and refined best practices based on the principles from *Hosseinzadeh*, which included: (1) whenever feasible, prescreening the original work and outlining the criticism and commentary before

the broadcast; (2) ensuring the commentary was directly related to the style and/or substance of the original work; (3) only broadcasting the portion of the original work that would be subject to critique; (4) pausing the original work frequently to provide critique; and (5) ensuring that the duration of commentary was substantially longer than the portion of the original work show immediately before the commentary.

Denims: The Alt-Left's Answer to Kellyanne Conway

16. Denims LARPs (*i.e.*, live action role play) as a revolutionary from the comfort of her bedroom in California. She is a prolific purveyor of misinformation and speaks with great confidence on topics where her knowledge leaves much to be desired. Denims repeatedly inserts herself into public controversies by employing poor judgment, knee-jerk contrarianism and a consistent impulse to defend the indefensible – including copyright infringement, terrorism and extremism.

17. Denims is one of the most loyal and ardent defenders of Hasan Piker p/k/a HasanAbi ("Hasan") – the most prominent alt-left streamer on Twitch. Much like Scientologists engage in "fair game,"[3] Denims ruthlessly attacks with reckless abandon anyone who disagrees with her or Hasan. She parrots Hasan's style, rhetoric, and content strategy (*i.e.*, regularly streaming "react" content with minimal transformation or commentary). As such, she has assumed a leading role in Hasan's "Waiting Room" – a collective of streamers who cultishly follow Hasan and parasitically leach off of his audience by streaming before and after him.

18. On November 17, 2023 (in a now deleted video),[4] Denims read Osama bin Laden's "Letter to America" in its entirety on stream. She frequently expressed agreement and support for the letter, such as:

a. "America deserved 9/11. I can't disavow facts man. I can't

[3] Wikipedia, "Fair game (Scientology)," *available at*: https://en.wikipedia.org/wiki/Fair_game_(Scientology)

[4] Frequently when Denims is embroiled in controversy, she will delete her streams to conceal her conduct. As such, many citations are to third-party videos expressing critique of Denims through excerpts of her now deleted streams.

disavow reality. That's not how that works bro."[5]

b. "[Denims reading from the letter] 'Why do they attack us in New York and Washington? If [Ariel] Sharon is a man of peace in the eyes of [George] Bush, then we are also men of peace! America does not understand the language of manners and principles, so we are addressing it using the language it understands.' [Denims response] He's not wrong about that. The US only understands violence."[6]

c. "[bin Landen's] criticisms of the United States are all correct."[7]

d. Despite Twitch's prohibition on terrorist propaganda,[8] Twitch gave Denims a slap on the wrist by banning her for just a day.[9]

19. On December 12, 2022 (in a now deleted video), Denims responded to the December 8, 2022 video of June Nicole Lapine p/k/a ShoeOnHead – which critiqued Balenciaga's advertising campaign that depicted minors in highly sexualized BDSM attire.[10] Rather than acknowledge the widespread concern, Denims took the absurdly grotesque position of defending Balenciaga's advertising campaign and attempted to paint ShoeOnHead as homophobic (despite ShoeOnHead not mentioning homosexuality whatsoever).[11]

[5] Hinged Media, *Twitch Streamer Denims banned for saying America Deserved 9/11* (November 22, 2023) at 0:35-46, *available at*: https://youtu.be/ZFn5EvA4NzY?si=64qYcduRzYadGOv8&t=35

[6] *Id.* at 1:09-1:47.

[7] *Id.* at 2:23-2:27; *see also* Destiny, *reading reading reading, preparing for Finkelstein* (Nov. 17, 2023), at 3:28:02-4:24:24, 4:44:30-4:46:19 *available at*: https://www.youtube.com/live/EtP8nTN_mLI?si=BH9GwaSwHogHtWgk&t=12482 (showing clip in its entirety with accompanying critique).

[8] Twitch, "Community Guidelines: Terrorism and Violent Extremism," *available at*: https://safety.twitch.tv/s/article/Community-Guidelines?language=en_US

[9] *See* https://x.com/StreamerBans/status/1727413649315119370

[10] ShoeOnHead, *The Creepy Balenciaga Scandal & Why I Was "'Cancelled'"* (Dec. 8, 2022), *available at*: https://youtu.be/f0GeDNP_2mw?si=EmZIISIXwtqplgPX

[11] Rob's Media Archive, *Denims Downplaying The Balenciaga* (Dec. 13, 2024), at 1:29:21-3:37:13, *available at*: https://youtu.be/PSHIn_rUFc8?si=Uo_tlp2roVnm5Tft&t=5361

20. Denims' involvement in the public controversy known as "Reactgate" provides great insight into her willful disregard for copyright. In early 2022, Hasan and Denims (along with several other Twitch streamers) received intense criticism for conducting "group viewing sessions" of third-party copyrighted content without permission. In these "group viewing sessions," streamers (like Hasan and Denims) would watch entire copyrighted works with little to no commentary – sometimes even letting the video play when they were not present or while the streamer was sleeping. The controversy reached a fever pitch when these "group viewing sessions" involved mainstream television shows and films.

a. On February 1, 2022, the online content creator known as Jay Exci released a video entitled *Hasan Piker, Jinx, and the Issue of "Reaction" Content*.[12] In the video, Jay Exci drew a distinction between reaction videos that provide substantive critique and/or additional insights into the original work and lazy reaction videos that resemble "group viewing sessions." In particular, Jay Exci focused on Hasan's "group viewing sessions," including: (1) his poverty of commentary; (2) his penchant for doing an "empty chair reaction" where he lets the video play while he is completely off screen; and (3) his failure to credit the author of the original video or link to the original content.

b. In a now-deleted response video, Denims defended the unauthorized use of copyrighted content by asserting that viewers prefer watching streamers over original uploads, particularly when the material is "curated." She claimed that established fair use standards are irrelevant to live streaming (including Twitch content) and need not be transformative through substantial commentary or editing. Rather, Denims claimed that a streamer's personality alone can justify the unauthorized rebroadcast of copyrighted material.[13]

[12] Jay Exci, *Hasan Piker, Jinx, and the Issue of "Reaction" Content* (Feb. 1, 2022), *available at*: https://youtu.be/_TVSfHbpR6k?si=Ai5RtbZfC9zExQad

[13] MooLer, *EFAP #180 – Denims vs. Jay Exci: The disastrous state of Twitch streamers w/ Stich & ShortFatOtaku* (April 3, 2022), *available at*: https://youtu.be/y6VfwO_VnOo?si=kSAlO1GHXONXnGmS

c. On February 6, 2025, Denims and Jay Exci conducted a debate about the propriety of "group viewing sessions" that was moderated by the online content creator named Chud Logic (the "Debate Video").[14] During the debate, Denims makes several damning statements about her personal perception on the unauthorized use of copyrighted content. Some notable moments are listed below.

i. Early on in the debate, Denims acknowledges that she uses third-party content as "filler" and that it siphons views away from the original:

> I just want to be clear on my opinion on, like, filler content and stuff. Like, I think filler content … you shouldn't do it. ***I know I do it as a react streamer***. And I try to do it only with *Vox* videos or *Vice* videos (and stuff like that) because I'm not, like, directly ripping from one content creator and not like a whole team and stuff. And most of those videos have, like, five million views. I only get, like, 500 viewers. Likely, I'm not even going to be taking out, ***I'm taking may 50 views from the video***. ***It's a lot harder to feel, like, I guess bad about that.***

Debate Video at 8:50-9:18.

ii. Shortly thereafter, Denims accepts her own bias in the situation and her desire to use third-party content: "Maybe I'm coping, because I'm a reactor and ***I want to have that content***." Debate Video at 9:42-9:45.

iii. Later in the debate, Denims sets forth her theory to justify a "group viewing session" of third-party content: that Twitch streamers are "curators" that provide a "communal" experience of watching content with their audience who do not want to take the time to find YouTube content on their own.

1. "You know, I'm sure if you click on a random part of the video, I might not be saying anything – sure, whatever – I might walk away from the screen. But it's about, like the communal thing. … It's not about the actual show at a certain point. It's like, oh, it's the same reason you watch shows with your friends. You want to watch it with other people, right." Debate Video at 28:06-28:27.

[14] Chud Logic, *Jay Exci vs Denims CLASH in Contentious DEBATE! – Hasan/React Streamer Debate* (Feb. 6, 2022), *available at*: https://youtu.be/Y1elepqFtWg?si=vRxjvwuZuqduDVHG

2. "I think when it comes to streamers on Twitch, a lot of people go watch streamers on Twitch for their react content almost as a curator. So, they don't actually want to go through YouTube themselves and watch a bunch of videos. And they probably never will go through YouTube and click a bunch of videos. They like going to Twitch because they like to have it as, like, this streamer is curating fun content that I want to watch." Debate Video at 28:52-29:18.

3. "I think that, like, people who are watching content on Twitch – curated Twitch content on Twitch – aren't necessarily people that would be watching content on YouTube." Debate Video at 30:18-28.

4. "A lot of the time, the reason that they go and watch react streamers is because they don't want to have to do the effort of going and scrolling through YouTube and clicking on recommends. Debate Video at 36:33-36:42.

5. "The people who watch Twitch content are specifically there to watch it so they don't have to scroll through YouTube and find a video that they like." Debate Video at 37:01-37:08.

iv. Denims, however, ultimately concedes that, when a viewer watches content "curated" by a Twitch streamer, it serves as a substitute for the original:

1. "There's no point of watching something a second time. You already watched it. Maybe, like, if you're watching it with some other people or something or it's been a long time, you might re-watch the video. ***But once you watch the video in one place, it's pretty unlikely that you're going to go back and watch it again***." Debate Video at 30:00-30:13.

2. "If someone watches content on someone else's stream, ***there is a very low likelihood that they're going to go watch it separately*** and give you the view or the like." Debate Video at 36:00-36:13.

Background of H3Snark

21. H3Snark is part of a genre of message boards – known as subreddits – on the website, Reddit. Snark subreddits consist of "fallen fans" of a particular entertainer. Over time, there have been numerous snark subreddits regarding TEI's podcasts and of the Klein. Many were banned by Reddit for violating its Content Policy – such as r/Frenemies and r/Frenemies2.

22. H3Snark was created on August 30, 2023 by Doe No. 1 – who was a fanatical Trisha Paytas ("Trisha") fan. Doe No. 1 became a "fallen fan" when the TEI series, *Frenemies* (which was co-hosted by Ethan and Trisha), ended abruptly in June 2021.

23. H3Snark became a haven for "fallen fans" of TEI's podcasts and the Kleins. While the average viewer would move on with their lives after becoming disinterested in a podcast, H3Snark "fallen fans" religiously watch TEI produced content with orgiastic hatred. H3Snark enables these deranged and chronically unemployed fallen fans to share their perverse pleasure of hate-watching TEI content with others by providing infringing clips and links to TEI content.

24. Beginning in the fall of 2023, H3Snark experienced a surge of new users who were "fallen fans" of the TEI series, *Leftovers.* As mentioned, the show was co-hosted by Ethan and Hasan (who is the most prominent alt-left streamer on the website, Twitch). On September 14, 2023, Ethan and Hasan debated various issues concerning China and Taiwan, such as whether Taiwan should be independent, the propriety of China's subjugation of Tibet and the genocide of the Uyghurs.[15] Due to Ethan pushing back on Hasan's pro-China positions, several *Leftover* fans who had an ecclesiastical parasocial relationship with Hasan flocked to H3Snark because they felt Ethan was critiquing them personally.

25. The surge of new users to H3Snark exploded after October 7, 2023.

[15] H3 Podcast, "Joe Biden Is Getting Impeached – Leftovers #57," at 50:06 (September 14, 2023), *available at*: https://www.youtube.com/live/EeFuFKH-uOo?si=J3-Z-J7jWtkpv_Bu&t=3006

The Kleins are dual Israeli-American citizens. Hila was born and raised in Israel, where she served as a secretary during her mandatory conscription into the Israeli Defense Forces ("IDF").[16] While both Ethan and Hila are highly supportive of Palestinian self-determination and extremely critical of Israel and its government, the Kleins support a two-state solution as the best interim solution to the conflict.[17]

26. In the wake of October 7th, Hasan emerged as the modern incarnation of The Grand Mufti Hajj Amin Al-Husseini ("Al-Husseini").[18] Like Al-Husseini, Hasan became a passionate advocate and highly charismatic leader of the

[16] H3 Podcast Highlights, *Hila From H3H3 Discusses Her Time In the Israeli Military (IDF)*, YouTube (Apr. 23, 2022), at 0:40–1:04, *available at*: https://www.youtube.com/watch?v=ytOl5hbTrCY.

[17] H3 Podcast, *i made a mistake. i'm sorry. – H3TV #93* (October 9, 2023), at 2:03:40-2:03:58, 2:05:14-2:05:20, 3:35:56-3:36:17, *available at*: https://www.youtube.com/live/ZNFeRPMOu8g?si=4jE4j8SsuGKOuiPL; H3 Podcast, *Israel vs. Gaza – Leftovers #61* (Oct. 12, 2023), at 8:26-9:20, 1:15:22-1:15:38, 2:52:33-2:52:41, *available at*: https://www.youtube.com/live/JFznOHunD_c?si=vtd4HrejPjU6kzzx; H3 Podcast, *Jay Shetty Exposed By Ex-Girlfriend & He Lied About Being A Monk – After Dark #139* (March 2, 2024), at 2:24:16-2:24:31, *available at*: https://www.youtube.com/live/5XrPXgcKwVc?si=893H-4SIKBG46jLD

[18] World War Two, *The Nazi-Islam Alliance? – Amin al-Husseini – WW2 Biography Special* (Dec. 21, 2021), *available at*: https://youtu.be/K07j-wuL8sw?si=en3seNLjS0JRmxHj; The World History Channel, *Why Did The Grand Mufti Of Palestine Collaborate With Nazi Germany?* (Jan. 30, 2025), *available at*: https://youtu.be/aVeXPFY7shI?si=ZT4GYoa27xKF6-kG; Casual Historian, *How the Zionists responded to World War Two and the Holocaust* (Feb. 8, 2025), *available at*: https://youtu.be/w6NrUiUhYiA?si=EswHI27G-9MW8OH4; Casual Historian, *The Palestine Mandate: The Origins of the Israeli-Palestinian Conflict (Supercut)* (Dec. 28, 2023), *available at*: https://youtu.be/vUuR-3tw9p8?si=EzAVrpG5IZHUKa8Y; United States Holocaust Memorial Museum, Holocaust Encyclopedia, "Hajj Amin al-Husayni: Wartime Propagandist," *available at*: https://encyclopedia.ushmm.org/content/en/article/hajj-amin-al-husayni-wartime-propagandist?parent=en%2F11094; United States Holocaust Memorial Museum, Holocaust Encyclopedia, "Hajj Amin Al-Husayni: Arab nationalist and Muslim Leader," *available at*: https://encyclopedia.ushmm.org/content/en/article/hajj-amin-al-husayni-arab-nationalist-and-muslim-leader?parent=en%2F11104; Wikipedia, "Amin al-Husseini," *available at*: https://en.wikipedia.org/wiki/Amin_al-Husseini

Palestinian cause.[19] Like Al-Husseini, Hasan used his massive platform to spread genocidal rhetoric about anyone advocating for the right of Jewish self-determination in their ancestral homeland (*i.e.*, Zionists).[20] The primary difference between Hasan and Al-Husseini is that Al-Husseini worked with the Nazis and advocated the annihilation of Jews[21] – while Hasan advocates the annihilation of all Zionists. Since the vast majority of Jews in the United States say caring about Israel is "essential" or "important," this would necessarily include the vast majority of Jews[22] – even if they support the Palestinian cause and vehemently condemn the actions of the Israeli government.

[19] Benny Morris, *1948: A History of the First Arab–Israeli War*, p. 23 (Yale Univ. Press 2008).

[20] Philip Mattar, *The Mufti of Jerusalem: Al-Hajj Amin Al-Husayni and the Palestinian National Movement* 105–06 (Rev. ed. Columbia Univ. Press 1992); Britannica, "Zionism," *available at*: https://www.britannica.com/topic/Zionism; Jewish Virtual Library, "Zionism: A Definition of Zionism," *available at*: https://www.jewishvirtuallibrary.org/a-definition-of-zionism; *see also* Tracy Wilkinson, Los Angeles Times, "Is Zionism patriotism or racism? Big disagreements over a word in use for 125 years" (May 22, 2024), *available at:* https://www.latimes.com/world-nation/story/2024-05-22/zionism-disagreement-over-a-word-in-use-for-125-years; Jewish Virtual Library, "Zionism: Table of Contents," *available at*: https://www.jewishvirtuallibrary.org/zionism

[21] Jeffrey Herf, *Nazi Propaganda for the Arab World*, p. 213 (Yale Univ. Press 2009); Kause-Michael Mallman and Martin Cuppers (Translated by Krista Smith) *Nazi Palestine* (2010); David Patterson, *A Genealogy of Evil: Anti-Semitism from Nazism to Islamic Jihad* (Cambridge Univ. Press 2010).

[22] Backa A. Alper, Pew Research Center, "How U.S. Jews are experiencing the Israel-Hamas war" (April 2, 2024), *available at*: https://www.pewresearch.org/short-reads/2024/04/02/how-us-jews-are-experiencing-the-israel-hamas-war/; Justin Nortey, Pew Research Center, "U.S. Jews have widely differing views on Israel" (May 21, 2021), *available at*: https://www.pewresearch.org/short-reads/2021/05/21/u-s-jews-have-widely-differing-views-on-israel/; The Jewish Majority, "New Poll: Jewish Voice for Peace Does Not Represent Vast majority of U.S. Jewish Community" (Feb. 12, 2025), *available at*: https://img1.wsimg.com/blobby/go/2921c434-f7d7-43f4-ade6-3a5591444c85/downloads/97dc308b-4559-4e42-a55e-53c77f75c044/Press%20release%202.11.2025.pdf?ver=1739292818681

Hitler and al-Husseini, November 28, 1941.

Al-Husseini Meets Adolf Hitler, November 28, 1941

Al-Husseini With His Close Friend Heinrich Himmler, 1943

"Arabs, rise as one man and fight for your sacred rights. Kill the Jews wherever you find them. This pleases God, history and religion. This saves your honor. God is with you." – Al Husseini (March 1, 1944 on Nazi radio)

27. On October 12, 2023, the last episode of *Leftovers* aired. It comprised of a discussion between Ethan and Hasan regarding the Israel/Palestine conflict and the events of October 7th.[23] During the discussion, Ethan expressed his support of the Palestinian cause and empathy for their suffering, along with condemning Israeli Prime Minister Benyamin Netanyahu. At the same time, Ethan attempted to humanize the victims of October 7th to Hasan in the hope that empathy and mutual understanding could begin the heal the divide. Hasan was unpersuaded and the relationship with Ethan and Hasan began to deteriorate.

28. In the aftermath of the falling out between Ethan and Hasan, H3Snark became a radioactive hub of "fallen fans" of TEI content and the Kleins. It became a focal point for spreading vicious lies, outlandish conspiracy theories and hallucinatory misrepresentations about the Kleins.

The Rampant Copyright Infringement on H3Snark

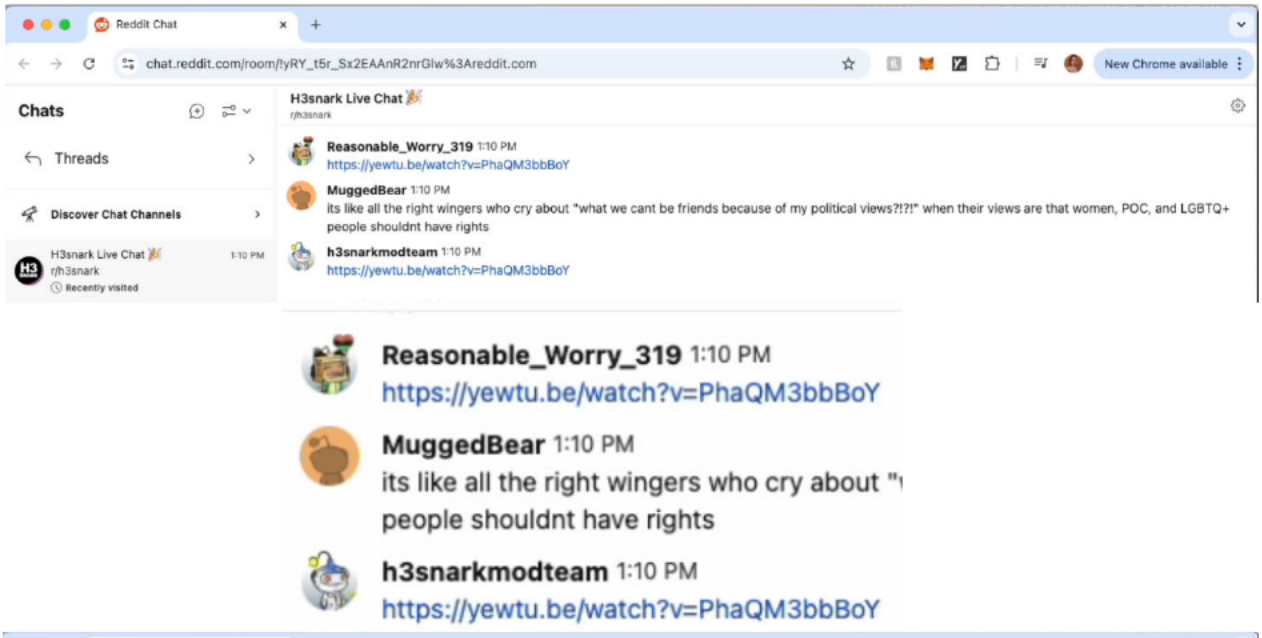
29. Despite their hatred towards the Kleins, the users of H3Snark had an insatiable appetite for TEI's content. The H3Snark users, however, did not want TEI to receive any views or advertising revenue from their consumption of TEI's content. As a result, H3Snark became a locus of copyright infringement of TEI content – as detailed below.

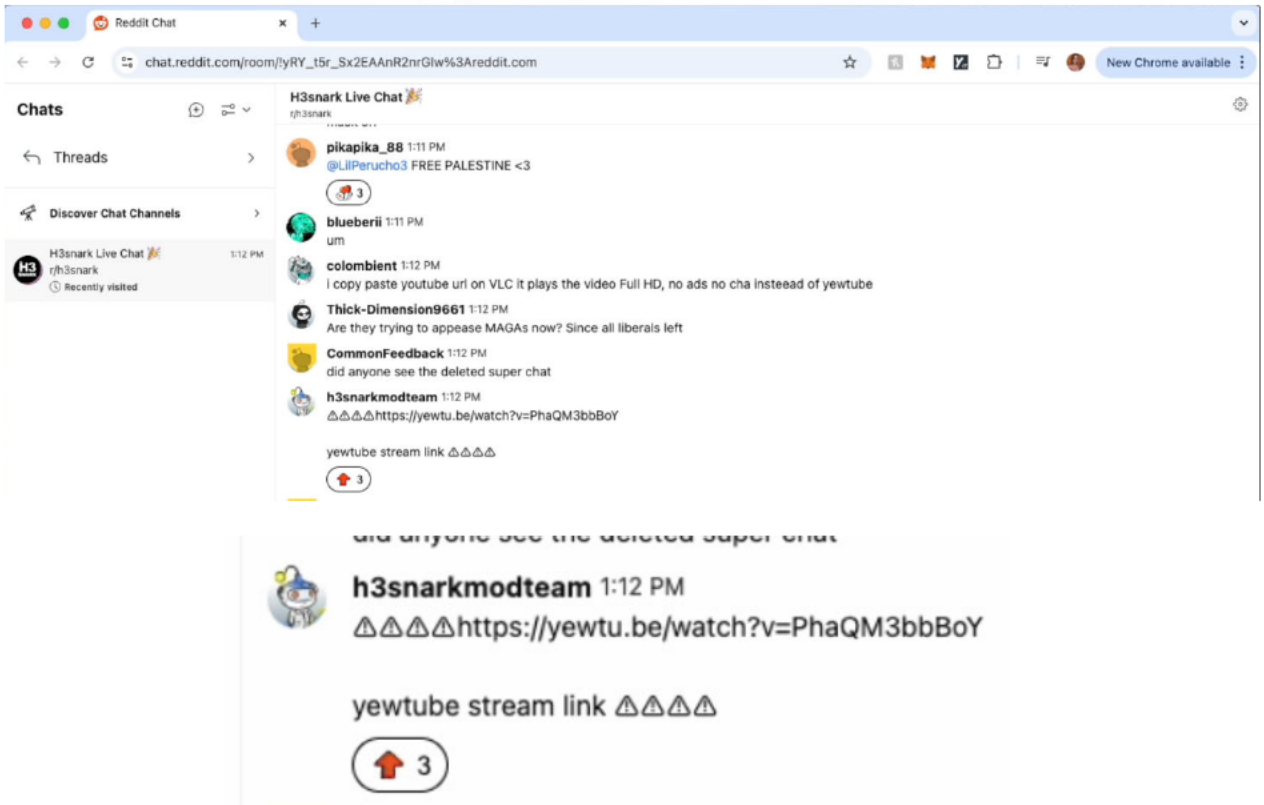
30. One method the H3Snark Mods employed to consume TEI content was to share links of TEI content on YewTube – a website that provides unauthorized access to YouTube videos and publicly performs them, which constitutes copyright infringement. *See* *Hunley v. Instagram, LLC*, 73 F.4th 1060, 1073-74 (9th Cir. 2023). YewTube had particular appeal to H3Snark Mods and H3Snark users because a video watched on YewTube does not result in a view or advertising revenue to the original on YouTube.

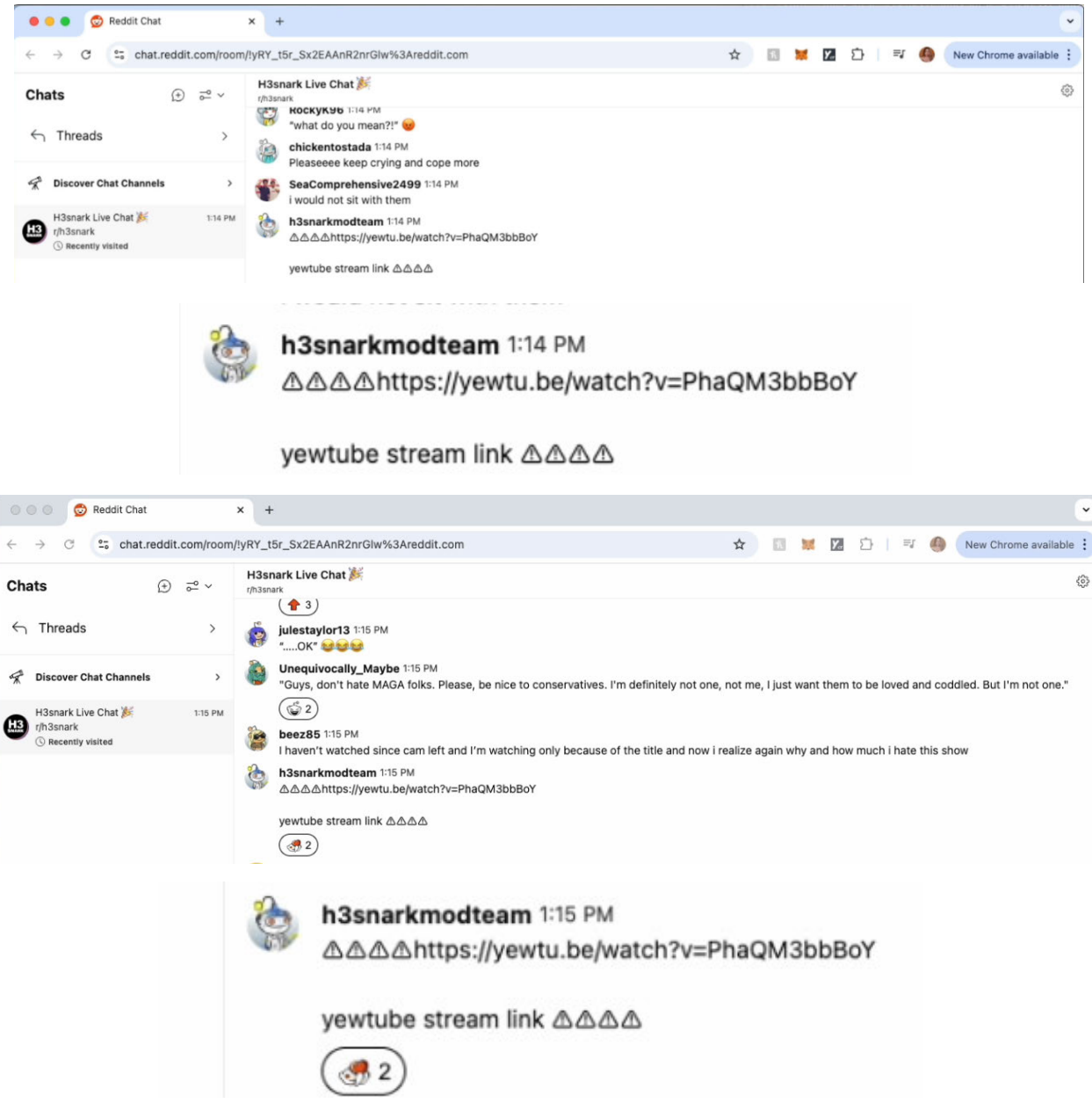
31. H3Snark Mods conducted live chats during TEI's live broadcasts. During the live chats, the H3Snark Mods would spam the chat with YewTube links

[23] H3 Podcast, "Israel vs Gaza – Leftovers #61" (October 12, 2023), *available at*: https://www.youtube.com/live/JFznOHunD_c?si=Cbfod032xwJ5e-FQ

of the broadcast. Once the livestream ended, the H3Snark Mods concealed the evidence of their copyright infringement by deleting the live chat logs. Below are true and correct screenshots of the H3Snark mods spamming the live chat with YewTube links to TEI copyrighted content.





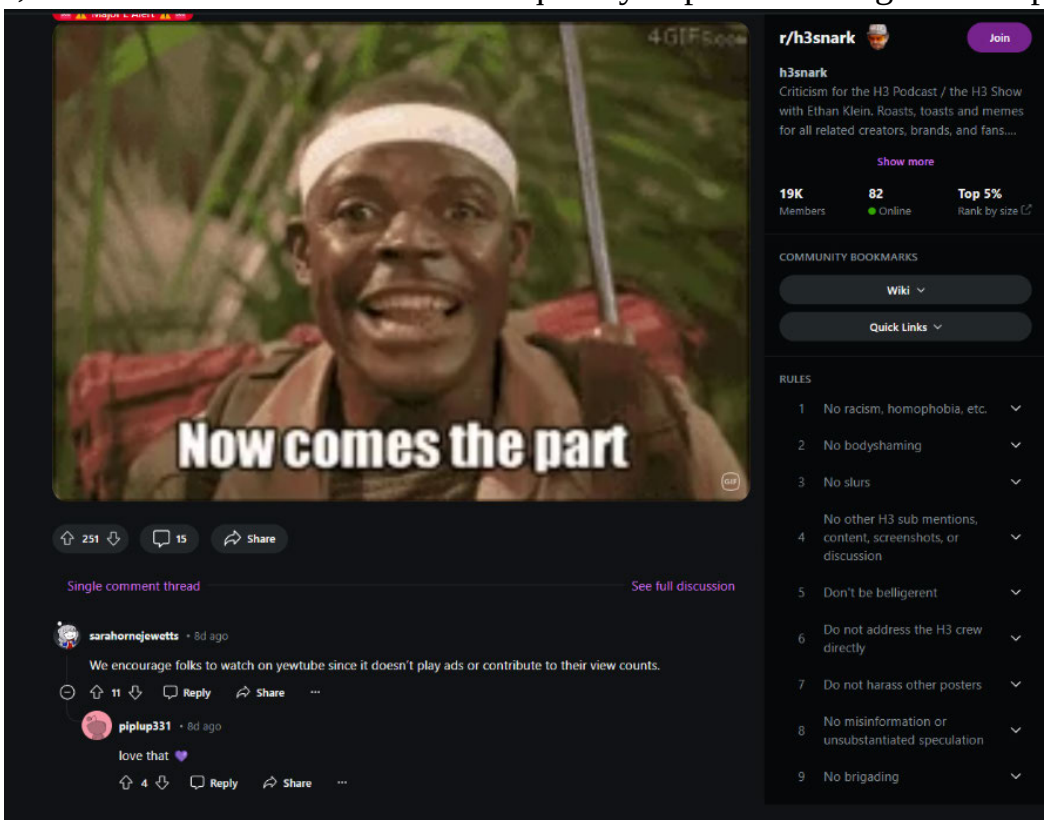


Reddit Chat
chat.reddit.com/room/!yRY_t5r_Sx2EAAnR2nrGlw%3Areddit.com
New Chrome available
Chats
Threads
Discover Chat Channels
H3snark Live Chat
r/h3snark
Recently visited
H3snark Live Chat
r/h3snark
julestaylor13 1:15 PM
"....OK"
Unequivocally_Maybe 1:15 PM
"Guys, don't hate MAGA folks. Please, be nice to conservatives. I'm definitely not one, not me, I just want them to be loved and coddled. But I'm not one."
beez85 1:15 PM
I haven't watched since cam left and I'm watching only because of the title and now i realize again why and how much i hate this show
h3snarkmodteam 1:15 PM
⚠⚠⚠⚠https://yewtu.be/watch?v=PhaQM3bbBoY
yewtube stream link ⚠⚠⚠⚠
h3snarkmodteam 1:15 PM
⚠⚠⚠⚠https://yewtu.be/watch?v=PhaQM3bbBoY
yewtube stream link ⚠⚠⚠⚠

32. Doe No. 3 (*i.e.*, u/sarahornejewetts) encouraged H3Snark users to use YewTube as an alternative to watching the TEI's video on its official channel by commenting on certain posts. Doe No. 3's comments were later wiped. Due to Doe No. 3's efforts, the user was anointed as one of the H3Snark Mods. Some examples of Doe No. 3 inducing copyright infringement of TEI content are contained below:

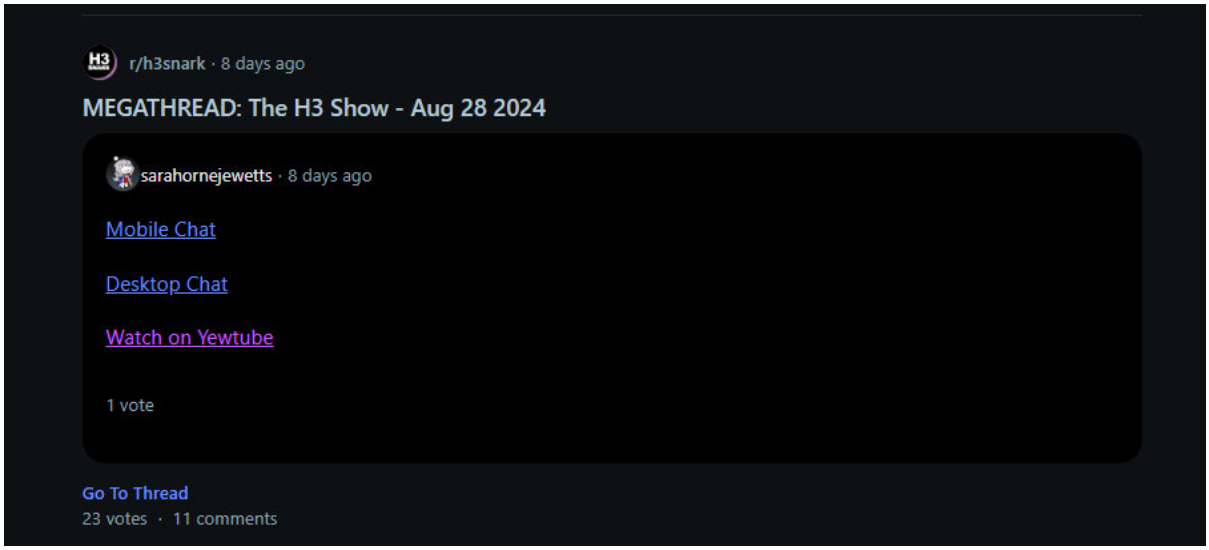
a. In August 2024, the u/PearlUnicorn created the post: "For those who wonder why Snarkers watch, moments like the second button failure." Below

is a true and correct screenshot of Doe No. 3 stating: "***We encourage folks to watch on yewtube since it doesn't play ads or contribute to their view counts***." As can be noted, Doe No. 3's comment was subsequently wiped from August 2024 post.

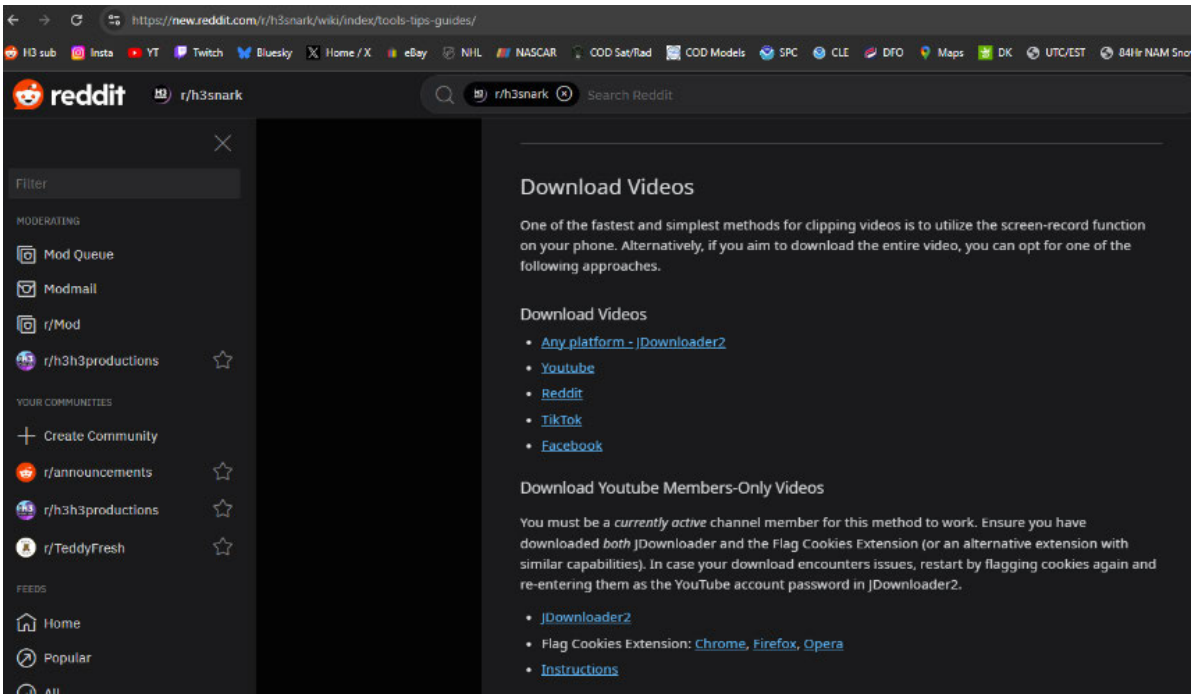


b. On August 28, 2024, the H3Snark Moderators created a post entitled "MEGATHREAD: The H3 Show – Aug 28 2024." Below is a true and correct screenshot of Doe No. 3 providing a link to the TEI video *Content Court: Jack Doherty – H3 Show #48* on YewTube.[24] As can be noted, Doe No. 3's comment has been wiped from the August 28, 2024 post.

[24] While Doe No. 3's post just contained a hyperlink labeled "Watch on Yewtube," the link would direct users to https://yewtu.be/watch?v=DCw4csgcEsk.



33. Under the H3Snark wiki page for "tools-tips-guides," H3Snark Mods also instructed H3Snark users on how to create clips of TEI content so these clips could be posted on H3Snark. At one point, the H3Snark Mods even instructed users how to download "Members-Only" content (*i.e.*, TEI content only accessible to paying members) so that they could be posted on H3Snark. To hide their inducement of copyright infringement, the H3Snark Mods deleted the portion on downloading "Members-Only" content from the guide. A true and correct screenshot of the portion regarding "Members-Only" content is provided below.


https://new.reddit.com/r/h3snark/wiki/index/tools-tips-guides/
reddit
r/h3snark
Search Reddit
Filter
MODERATING
Mod Queue
Modmail
r/Mod
r/h3h3productions
YOUR COMMUNITIES
Create Community
r/announcements
r/h3h3productions
r/TeddyFresh
FEEDS
Home
Popular
Download Videos
One of the fastest and simplest methods for clipping videos is to utilize the screen-record function on your phone. Alternatively, if you aim to download the entire video, you can opt for one of the following approaches.
Download Videos
Any platform - JDownloader2
Youtube
Reddit
TikTok
Facebook
Download Youtube Members-Only Videos
You must be a currently active channel member for this method to work. Ensure you have downloaded both JDownloader and the Flag Cookies Extension (or an alternative extension with similar capabilities). In case your download encounters issues, restart by flagging cookies again and re-entering them as the YouTube account password in jDownloader2.
JDownloader2
Flag Cookies Extension: Chrome, Firefox, Opera
Instructions

TEI Issues Takedown Notices for Infringing Posts and Comments on H3Snark

34. TEI began to fight back against the copyright infringement on H3Snark by issuing takedown notices pursuant to 17 U.S.C. Section 512(c)(3) ("DMCA Takedowns"). TEI was extremely surgical about which H3Snark posts would be subject to DMCA Takedowns. Relying on the most pertinent fair use decisions,[25] TEI issued DMCA Takedowns only for: (1) posts/comments that uploaded an entire TEI episode onto Reddit – particularly paywalled TEI content; (2) comments that provided a YewTube link to entire episodes of TEI content; or (3) posts that contained a clip of TEI content with a descriptive, non-critical title and the comments were locked by the H3Snark Mods or there were no comments after several hours.

a. August 1, 2024 DMCA Takedown: On August 1, 2024, TEI issued a DMCA Takedown for the H3Snark post entitled "H3 Live Show Behind the Scenes." The post contained a complete version of TEI's video *H3 Podcast BTS #53* – which was "Members Only" content (*i.e.*, accessible only to paying members of *The H3 Podcast* YouTube channel). On August 2, 2024 (*i.e.* one day later), Reddit honored this DMCA Takedown.

b. August 30, 2024 DMCA Takedown: On August 30, 2024, TEI issued a DMCA Takedown for a comment by Doe No. 3 (*i.e.*, u/sarahornejewetts) on the H3Snark Post entitled "MEGATHREAD: The H3 Show - Aug 28, 2024" (the "8/30/24 Takedown"). The comment contained a YewTube link to the TEI video *Content Court: Jack Doherty – H3 Show #48*.[26] On September 9, 2024 (*i.e.*, nine days later), Reddit honored the 8/30/24 Takedown.

[25] *In re DMCA Subpoena to Reddit, Inc.*, 441 F.Supp.3d 875, 883-886 (N.D. Cal. 2020); *Hughes v. Benjamin*, 437 F.Supp.3d 382, 390-394 (S.D.N.Y. 2020); *McGucken v. Pub Ocean Ltd.*, 42 F.4th 1149, 1157-1164 (9th Cir. 2022); *Warhol*, 598 U.S. at 525-550; *Elvis Presley Enterprises, Inc. v. Passport Video*, 349 F.3d 622, 627-631 (9th Cir. 2003); *Hosseinzadeh*, 276 F.Supp.3d at 41-42, 45-47; *Monge v. Maya Magazines, Inc.*, 688 F.3d 1164, 1170-1183 (9th Cir. 2012).

[26] The comment for u/sarahornejewetts (*i.e.*, Doe No. 3) no longer exists on the post, but a screenshot of it is show in connection with Paragraph 32.b, *supra*.

c. September 18, 2024 DMCA Takedown: On September 18, 2024, TEI issued a DMCA Takedown for the H3Snark post entitled "Ethan and Dan confirm that posting to snark will get you banned" (the "9/18/24 Takedown"). The post solely comprised of a clip from the TEI video *Ethan Debates Anti-Semitic Sneako Fan – H3 Show #55*. The post contained no comments because the H3Snark Mods locked the post. Reddit never informed TEI whether the 9/18/24 Takedown was honored.

d. November 22, 2024 DMCA Takedowns: On November 22, 2024, TEI issued two DMCA Takedowns

i. First Takedown: The first DMCA Takedown was for the H3Snark post "ethan talks positively about celebrity poker tour's sponsor, a sports gambling app named fliff h3 show #83." The post contained a clip from the TEI video *We Play Poker w/ Ninja, Impractical Jokers, & More! – H3 Show #83*. The post contained two comments: (1) "Dude ur flair is actually fucking frying me rn" (original spelling); and (2) "The downfall is real man." The post contained no further comments because the H3Snark Mods locked the post. On November 29, 2024 (*i.e.*, seven days later), Reddit informed TEI that it honored this DMCA Takedown.

ii. Second Takedown: The second DMCA Takedown was for the H3Snark post entitled "Ethan describes his issues with Hasan as 'personal beef.'" This post contained a clip from the TEI video entitled *Logan Paul Posted F***KING INSANE Cringe – H3 Show #84*. At the time this DMCA Takedown was issued, the post had been up for over two hours and had no comments at that time (but 130 upvotes).[27] On December 5, 2024 (*i.e.*, nearly two weeks later), Reddit informed TEI that it honored this DMCA Takedown.

[27] After this DMCA Takedown was issued (but before Reddit honored it), the post received additional comments. A true and correct PDF printout of the post taken on November 22, 2024 is attached hereto as Exhibit A. *Compare* Ex. A *with* https://www.reddit.com/r/h3snark/comments/1gxofik/ethan_describes_his_issues_with_hasan_as_personal/

e. November 26, 2024 DMCA Takedowns: On November 26, 2024, TEI issued two DMCA Takedowns.

i. First Takedown: The first DMCA Takedown was for the H3Snark post "LB says '[far leftists] hate israel because israel is backed by the west' and this can lead to antisemitism. Ethan agrees, then says freedom of religion, speech, press, and to 'control what happens in your own work space' would be under state-control in communism – h3 show #85." (original spelling and brackets). The post contained a clip from the TEI video entitled *I Haven't Been Well – H3 Show #85*. The post contained no comments because the H3Snark Mods locked the post. On December 6, 2024 (*i.e.*, ten days later), Reddit informed TEI that it honored this DMCA Takedown.

ii. Second Takedown: The second DMCA Takedown for the H3Snark post "Lena asks Lonerbox about civilians and doesn't get a direct answer: 'It's always civilians are dying… BUT… and then theres a reason for justifying it.'" (original ellipses and spelling) (the "Second 11/26/24 Takedown"). The post contained a clip from the TEI video entitled *I Haven't Been Well – H3 Show #85*. The post contained no comments because the H3Snark Mods locked the post. On December 6, 2024 (*i.e.*, ten days later), Reddit informed TEI that it honored this DMCA Takedown.

The H3Snark Mods' Efforts to Issue Fraudulent Counternotifications

35. The H3Snark Mods made a concerted effort to issue fraudulent counternotifications to TEI's DMCA Takedowns, as detailed below:

a. On January 15, 2025, Reddit informed TEI that a so-called counternotification was issued against both the 8/30/24 Takedown the 9/18/24 Takedown (the "First Fraudulent Counternotification").[28] The First Fraudulent Counternotification was issued on October 18, 2024 – *i.e.*, Reddit informed TEI

[28] A true and correct copy of the First Fraudulent Counternotification is attached hereto as Exhibit B.

nearly three months later.

i. On its face, the First Fraudulent Counternotification failed to satisfy the requirements of 17 U.S.C. Section 512(g)(3) because it failed to include: (1) the issuer's address and telephone number; (2) consent to jurisdiction and service of process; and (3) a statement made under penalty of perjury.

ii. Further, the First Fraudulent Counternotification contained numerous indicia of being fraudulent because: (1) it was a single counternotification for posts made by two different users (*i.e.* u/sarahornejewetts and u/obrienpotatoes); and (2) it misrepresented that the 8/30/24 Takedown was for the post and not the comment with the YewTube link.

iii. It was also evident the First Fraudulent Counternotification was issued by the H3Snark Mods because it stated: (1) "We are writing to contest the removal of two posts from ***our subreddit*** under alleged copyright claims" (emphasis added); (2) "***We believe these reports may have been filed by fans rather than the legitimate copyright holder***" (emphasis added) – despite the fact that TEI's counsel's contact information was provided in both the 8/30/24 Takedown and 9/18/24 Takedown; and (3) the name of the issuer was "Michael Anderson" – a generic name that would make it impossible to identify the issuer of the First Fraudulent Counternotification.

iv. On January 16-17, 2025 (*i.e.*, two days after receiving the First Fraudulent Counternotification), TEI explained in exacting detail the facts and law demonstrating the First Fraudulent Counternotification was invalid. On March 18, 2025 (*i.e.*, over two months later), Reddit responded that it agreed that the First Fraudulent Counternotification was invalid – but claimed that it would refuse to honor the 8/30/24 Takedown because the post only linked to TEI's video on YouTube. The same day, TEI explained to Reddit that this was false because the 8/30/24 Takedown explicitly stated it was directed at the comment by Doe No. 3 (*i.e.*, u/sarahornejewetts) and contained a YewTube link, including providing a

screenshot for the comment. To date, Reddit has not responded.

b. Additionally, on March 18, 2025 (the same day Reddit informed TEI that the First Fraudulent Counternotification was invalid), Reddit notified TEI that another counternotification was issued regarding the 9/18/24 Takedown (the "Second Fraudulent Counternotification").[29] The Second Fraudulent Counternotification was issued on December 5, 2024 (*i.e.*, Reddit notified TEI three and a half months later).

i. The Second Fraudulent Counternotification contained no indicia that the issuer considered the four fair use factors prior to issuing the Second Fraudulent Counternotification – which is unlawful. *See Hosseinzadeh*, 276 F.Supp.3d at 36; *Hughes*, 437 F.Supp.3d at 394-395; *cf* *Lenz v. Universal Music Group*, 815 F.2d 1145, 1149, 1154-55 (9th Cir. 2016). Further, the language of the Second Fraudulent Counternotification demonstrated the issuer – u/obrienpotatoes – did not understand fair use in general, by stating: (1) "This was an abuse of the fair use system" (which is bizarre because u/obrienpotates was claiming fair use, not TEI); and (2) the conclusory assertion "Even so, it would still be allowed under fair use" without any analysis. This is further emphasized by an April 11, 2025 post on X by @obrienpotatoes1. In the post, @obrienpotatoes posted the cease and desist letter sent by TEI's counsel and defended the Reddit post by claiming it was only "A MINUTE AND A HALF LONG CLIP" – *i.e.*, only focusing on the amount used and not the other fair use factors.[30]

ii. The Second Fraudulent Counternotification also echoed language similar to the First Fraudulent Counternotification – indicating the H3Snark Mods worked with u/obrienpotatoes to issue the Second Fraudulent Counternotification: "This subreddit has also been mercy to many ***bad faith brigades*** recently, so ***I do not believe this appeal was filed by the actual copyright***

[29] A true and correct copy of the Second Fraudulent Counternotification is attached hereto as Exhibit C.

[30] *See* https://x.com/obrienpotatoes1/status/1910711822212067372

owner" (emphasis added) – despite the 9/18/24 Takedown containing TEI's counsel's contact information.

iii. Additionally, after the Second 11/26/24 Takedown was issued, one of the H3Snark Mods (who later deleted their account) left a comment on the post stating: "I reached out via DM to discuss how to appeal these, if you're willing to fill out the form." This further emphasizes the H3Snark Mods coordinated a campaign of issuing fraudulent counternotifications to enable H3Snark's copyright infringement of TEI's works.

c. The H3Snark Mods went on a public relations campaign to paint TEI's DMCA Takedowns as fraudulent to cover up their copyright infringement. To achieve this objective, the H3Snark Mods authored several posts misrepresenting the facts.[31]

d. After Ethan became vocal about pursuing claims against H3Snark, the H3Snark Mods began deleting their posts, comments and accounts *en masse* to perpetuate their false narrative and conceal their copyright infringement (along with other illegal activity, such as organized harassment and defamation).

e. On March 5, 2025, a YouTuber by the name of "The Law" posted a video on YouTube entitled *Dear H3Snark, I see you.*[32] In the video, The Law admits he was a former H3Snark user who came to reject the obsessive and destructive behavior he saw taking over the subreddit. He documented the acts of copyright infringement by H3Snark users and H3Snark Mods (and other unlawful

[31] https://www.reddit.com/r/h3snark/comments/1h851se/false_copyright_strike_tracker_megathread_ethan/; https://www.reddit.com/r/h3snark/comments/1fdmu80/h3ethan_klein_is_abusing_the_copyright_system_by/; https://www.reddit.com/r/h3snark/comments/1h79qk3/another_false_copyright_strike_likely_from_ethan/; https://www.reddit.com/r/h3snark/comments/1hvtb5v/confirmed_ethan_klein_hired_an_attorney_to_issue/

[32] The Law, *Dear H3Snark, I see you.* (March 3, 2025), *available at:* https://youtu.be/lfjbgNjo0Oc?si=zbNomCBmxySgCuvU

conduct), including their attempts to conceal their unlawful conduct. The video documents:

i. The H3Snark Mods deleted posts after Ethan announced plans to pursue legal action against H3Snark for harassment (1:18-1:41);

ii. How the H3Snark Mods abused the live chat feature on Reddit to promote harassment and defamatory statements, including promoting some of the egregious offenders into H3Snark Mods (2:02-4:54);

iii. How the H3Snark Mods use "sock puppet accounts" (*i.e.*, using a false online identity for deceptive purposes) to conceal their identities while engaging in harassment – which were deleted after Ethan announced he would pursue legal action against H3Snark (4:55-6:51); and

iv. How the H3Snark Mods purposefully lied about TEI's DMCA Takedowns to conceal their copyright infringement and obfuscate their intent to siphon views and ad revenue away from TEI (6:52-9:11).

TEI Creates and Registers *The Nuke*

36. By the fall of 2024, Ethan and Hila Klein's concern reached a fever pitch over Hasan radicalizing his audience with propaganda from Ansar Allah a/k/a The Houthis, Hezbollah and Hamas. The Kleins were equally concerned with Twitch's refusal to enforce its Community Guidelines against Hasan and his so-called "Waiting Room" – *i.e.*, other Twitch streamers, like Denims, who parrot Hasan and parasitically leach off his audience by broadcasting immediately before or after his streams.

37. Hasan and his Waiting Room hijacked the necessary and important discussion of the Israeli-Palestinian conflict and the Gaza War. They employed genocidal rhetoric that painted all Israelis as subhuman warranting annihilation. The term "Zionist" lost all meaning and quickly mutated into a thinly-veiled dog whistle for Jews.[33] To combat the tsunami of hateful rhetoric, Ethan and Hila Klein –

[33] The term "Zionist" was used as a slur to paint anyone who supported the (continued).

through TEI – created *Content Nuke: Hasan Piker*.

38. *The Nuke* was written, shot and edited from December 2024 through January 2025. On January 27, 2024 (*i.e.*, four days before the Nuke was publicly released on TEI's h3h3Productions YouTube channel), TEI submitted its application to register *The Nuke* with the United States Copyright Office (the "USCO"). On January 28, 2025, the USCO received the deposit copy of the Nuke (the "Deposit Copy"). The registration number for *The Nuke* is PAu 4-256-429.

39. The Deposit Copy varied slightly from the broadcast version of *The Nuke* (the "Broadcast Version"). First, the Deposit Copy did not contain the conclusion and sponsor segment that was contained in the Broadcast Version. Second, to prevent *The Nuke* from being age-restricted by YouTube (which would limit its reach), TEI was required to fully blur out the footage of the Houthis entering the bridge of the *Galaxy Leader* and black out the footage of Hamas releasing hostages from November 2023. Third, minor visual edits were made. Ultimately, all of the Deposit Copy was incorporated into the broadcast version of the Nuke comprised of the Deposit Copy.[34]

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existence of Israel or a two-state solution as a Kahanist (Jewish Supremacist) or Israeli Religious Nationalist. In the most recent Israeli Legislative Election in 2022, the coalition of these parties only received 10.84% of the vote. Wikipedia, "Kahanism" *available at*: https://en.wikipedia.org/wiki/Kahanism; Institute for Middle Eastern Understanding, "Fact Sheet: Meir Kahane & The Extremist Kahanist Movement" (May 17, 2024), *available at*: https://imeu.org/article/fact-sheet-meir-kahane-the-extremist-kahanist-movement; Wikipedia, "National Religious Party," *available at*: https://en.wikipedia.org/wiki/National_Religious_Party; The Israel Democracy Institute, "National Religious Party (Mafdal)," *available at*: https://en.idi.org.il/israeli-elections-and-parties/parties/national-religious-party/; Wikipedia, "2022 Israeli legislative election," *available at*: https://en.wikipedia.org/wiki/2022_Israeli_legislative_election.

[34] TEI is concurrently-filing with this Complaint a Notice of Lodging accompanied by a flash drive containing various video exhibits referenced in the Complaint (the "Flash Drive"). A true and correct copy of the Deposit Copy is located on the Flash Drive as Exhibit D. A true and correct copy of the Broadcast Version is located on (continued).

The Nuke

40. *The Nuke* is a tragi-comic documentary critiquing Hasan and Twitch. It contains of original footage, highly edited montages, parodic skits and archival materials (a great deal of which are owned by TEI). *The Nuke* can be divided into seven sections: (1) The Prologue; (2) The Twitch Parody Sketch; (3) The Houthi Section; (4) The Hezbollah Section; (5) The Hamas Section; (6) The Twitch Section; and (7) The Conclusion.

a. The Prologue (Ex. E at 0:00:00-0:25:40): The Prologue walks the audience through Ethan's thesis of *The Nuke*: that Hasan radicalizes his audience with genocidal and antisemitic terrorist propaganda.

i. While admitting both of himself and Hasan are polarizing figures with controversial takes, Ethan explains he grew concerned with Hasan's rhetoric after hearing him excuse Russian and Chinese genocide and imperialism, namely Hasan's positions on Crimea, Tibet, Taiwan and the Uyghurs.

ii. Once October 7th occurred, Ethan's concerns were exacerbated. He received a torrent of antisemitic comments from Hasan's audience and saw Hasan downplay the sexual violence perpetrated by Hamas on October 7th.

iii. Ethan explains that the primary difference of opinion between him and Hasan (and his audience). While both are aligned on supporting the Palestinian cause – including condemning Israeli Prime Minister Benyamin Netanyahu, Israeli settlements and Israeli settlers – they differ in one key aspect regarding how to solve the conflict: Ethan believes in a two-state solution, while Hasan (and his audience) believe in a one-state solution.

iv. Ethan articulates the concerns Israelis have with a one-state solution: Israel has been at war with its Arab neighbors since the country's inception. As a nation of refugees, the idea of suddenly becoming a minority raises legitimate concerns – particularly for the Mizrahi Jews (*i.e.*, Jews from Arab

the Flash Drive as Exhibit E.

countries) who were expelled from Arab countries.

v. Ethan then shows archival footage of Hasan: (1) supporting terrorism and glorifying terrorists; (2) admitting to hiding his "power level" (*i.e.*, extremism) because it is a more palatable way to introduce young people into the "radicalization funnel"; (3) conceding to being a propagandist; and (4) expressing vitriolic hatred of liberals. Ethan further points out that Twitch takes no action to moderate Hasan.

vi. Ethan ends The Prologue by expressing his underlying fear that he played a role in mainstreaming Hasan and that he radicalized Ethan's audience.

b. The Twitch Parody Sketch (Ex. E at 0:25:41-0:30:39): The next section involves Ethan parodying a Twitch advertising executive. In the scene, Ethan mocks how Twitch has embraced Hasan's extremist rhetoric and rebrands terrorism as socially acceptable. After the sketch ends, Ethan shows a media bias report that ranked Hasan as one of the most extreme and unreliable news sources.

c. The Houthis Section (Ex. E at 0:30:40-0:55:33): The Houthi Section focuses on Hasan radicalizing his audience by glorifying and disseminating Houthi propaganda.

i. Ethan begins with an overview of various Houthi atrocities and how they contradict leftist values. Examples include recruiting child soldiers, shelling and blocking aid to civilians, ruining agricultural land with mines, oppressing women and members of the LGBTQ community, torturing and killing women and slavery. Ethan also highlights the Houthi's antisemitism – such as performing Nazi salutes and the slogan on their flag calling for "Death to Israel" and "Curse Upon the Jews."

ii. Ethan critiques Hasan's coverage of the Houthis by using his stream with Nick Polom p/k/a Nmplol ("Nick") as a case study. Hasan exploits Nick's political naiveté by putting on a Houthi propaganda music video and leaving

Nick alone who watches in abject horror. Ethan cites Twitch's Community Guidelines – which explicitly prohibit showing terrorist propaganda for any purpose. Despite this, Twitch refuses to enforce its Community Guidelines against Hasan. Hasan downplays to Nick the fact that the Houthi propaganda video is terrorist propaganda by describing the video as merely a "musical" and the Houthis as "musical people." When Hasan mischaracterizes the hijacking of the ship the *Galaxy Leader* as an effective deterrent against Israel, Ethan debunks Hasan's assertions that the ship was in Houthi waters, destined to Israel or an Israeli ship. Ethan also excoriates Hasan for minimizing the Houthis taking the crew of the *Galaxy Leader* hostage.

iii. Ethan also critiques Hasan's misguided belief that, if Israeli commerce is disrupted, Israelis will leave Israel. Ethan demonstrates 80% of Israelis were born in the country and have nowhere else to go. This is exacerbated by the fact that the majority of Jewish Israelis fled (or are descendants from those who fled) Arab countries. The argument that Jews will "return where they came from" is ahistorical and denies the connection of Jews to the Middle East. Rather, it furthers an antisemitic conspiracy theory that questions the origins of the Jews in an attempt to brand Jewish Israelis as outsiders and colonizers.

iv. Ethan shows another example of Hasan watching and praising a different Houthi propaganda music video. To mock Hasan's laudatory coverage of this video, Ethan juxtaposes the Houthi music video with a highly edited version of the Miami Boys Jewish Choir singing "Yerushalim."

v. Ethan lambasts Hasan's interview of the Houthi terrorist Rashid Al-Haddad a/k/a Tim "Houthi" Chalamet ("Al-Haddad"). Al-Haddad became a viral sensation on TikTok when he shot footage of himself boarding the *Galaxy Leader*. Ethan mocks Hasan's self-described "journalism" through a montage of Hasan acting like a fan girl, asking frivolous questions and blindly accepting Al-Haddad's answers – particularly his absurd claim that he danced with

the crew taken hostage and that he successfully convinced the crew to hate Israel.

vi. Ethan exposes Hasan's subsequent attempts to downplay Al-Haddad's Houthi connections as disingenuous and a form of bigotry. Not only did Hasan believe he was speaking with a Houthi and promoted the interview as being with a Houthi, Al-Haddad's social media posts admitted and reinforced this fact. When confronted with Al-Haddad's social media posts that fail to distinguish between Jews and Zionists, Hasan engages in all forms of apologia to excuse Al-Haddad's genocidal and antisemitic rhetoric. Hasan even grotesquely compares Al-Haddad to Anne Frank – which Ethan mocks as the Twitch advertising executive.

vii. The Houthi section ends with Ethan excoriating Hasan with a montage of him cynically deflecting and evading criticism by exploiting the term "genocide." This hypocrisy is highlighted by footage of Hasan from a few years ago where he was unable to locate Yemen on a map (and even confusing it with Israel).

d. The Hezbollah Section (Ex. E at 0:55:44-1:01:43): The Hezbollah Section focuses on Hasan radicalizing his audience by disseminating and glorifying Hezbollah propaganda.

i. Ethan begins by highlighting some of Hezbollah's atrocities and how they contradict leftist values. Examples include engaging in terrorism resulting in the deaths of thousands of civilians, the assassination of Lebanese Prime Minister Rafik Al-Hariri, hijacking airplanes, firing 15,000 rockets in civilian areas, being a designated terrorist group and its participation in the Syrian genocide to prop up the dictator Bashar Al-Assad.

ii. Next, Ethan critiques Hasan by juxtaposing scenes of him downplaying and excusing Hezbollah's genocidal terrorism and praising Hassan Nasrallah (Hezbollah's former leader) with Nasrallah's numerous antisemitic and genocidal statements against Jews.

iii. Ethan goes on to critique Hasan's lazy and ignorant

apologia for Hezbollah and analysis of the conflict, such as branding any criticism of Hezbollah as Islamophobic and Hasan telling Nick that Israel attacked Lebanon because "they were just there." Ethan refutes these assertions by demonstrating Hezbollah began firing rockets at Israel the day after October 7th, killed over 100 Israelis and displaced over 200,000. Ethan questions how Hasan's falsehoods help his position when, in reality, Hasan's misrepresentations only exacerbate the conflict.

e. The Hamas Section (Ex. E at 1:01:44-1:11:50): The Hamas Section focuses on Hasan radicalizing his audience by disseminating and glorifying Hamas propaganda, coupled with denying the atrocities of October 7th.

i. Ethan begins by highlighting some of Hamas' atrocities and how they contradict leftist values. Examples include recruiting children, committing hundreds of suicide bombings that target civilians, firing 50,000 rockets into civilian areas, oppression of women, punishing homosexuality by death, stealing aid intended for Gazans for its own military use or exploiting Gazans by selling the aid back to them.

ii. Next, Ethan critiques Hasan's reaction to a Hamas propaganda video from November 2023 involving the release of Israeli hostages. Hasan gushes effusively over Hamas' treatment of the hostages. He even makes the absurd claim that hostages released in the future will chose to stay in Gaza rather than return to Israel. When a member of Hasan's audience points out the hostages are traumatized, Hasan claims the hostages are "just chillin." Ethan correctly points out that these scenes are staged by Hamas, that the hostages are still being held at gunpoint and provided instructions on how to behave, such as "keep waving."

iii. Ethan goes on to lambast Hasan's reaction to a Hamas propaganda video depicting Hamas creating homemade sniper rifles. Hasan plays the entire clip without any commentary or criticism. Once complete, Hasan's explanation for showing the video is a nonsensical word salad of buzzwords that

have nothing to do with the contents of the video.

iv. Ethan goes on to address Hasan's grotesque denial of sexual violence perpetrated by Hamas on October 7th. He shows a montage of numerous clips of Hasan explicitly denying the sexual violence of October 7th and scoffing at President Biden and Vice-President Harris discussing said violence. Ethan refutes Hasan's denials by showing clips of victim testimony from Sheryl Sandberg's documentary *Screams Before Silence* and displayed the conclusion of a United Nations report that stated:

> Overall, based on the totality of information gathered from multiple and independent sources at the different locations, there are reasonable grounds to believe that conflict-related sexual violence occurred at several locations across the Gaza periphery, including in the form of rape and gang rape, during the 7 October 2023 attacks. Credible circumstantial information which may be indicative of some forms of sexual violence, including genital mutilation, sexualized torture, or cruel, inhuman and degrading treatment, was also gathered.

v. Ethan concludes the section by addressing the heart of the matter. Hasan exacerbates the Israeli-Palestinian conflict by denying the suffering of Israeli victims to hold up Hamas as unimpeachable. As Ethan poignantly states:

> This conflict will never end until people realize that Palestinian liberation and Israeli security are not mutually exclusive. You need both. And it can be done, but not while people like Hasan lie, propagandize and incite hate. It's people like him, ironically, that prolong the conflict indefinitely. There's no space for conversation. There is no space for rational thought. There is no space for nuance. My position on Palestine is like five degrees off from where Hasan is. And to him and his community, I'm the devil. I'm a Nazi. It's delusional thinking. And it's destructive to their own cause.

f. The Twitch Section (Ex. E at 1:11:51-1:40:29): The Twitch Section explores the role Twitch plays in enabling Hasan and his Waiting Room to violate Twitch's Community Guidelines.

i. Ethan begins by critiquing Twitch's Chief Executive Officer, Dan Clancy ("Clancy"). He points to Clancy's ineffectiveness as a CEO, namely rolling back his initiative to change revenue splits and the size of sponsor logos on stream – along with laying off significant portions of Twitch staff. Clancy explicitly states he is a fan of Hasan and is aware of his rhetoric. Clancy even sang

Hasan "Happy Birthday" and forced Twitch employees to sing along while being filmed. Ethan also discusses the creepiness of Clancy's penchant for e-girls (*i.e.*, young, female Twitch streamers whose streams are about highlighting their physical assets) by pointing to two examples of Clancy's stories feature on the Twitch app being completely populated by e-girls.

ii. Next, Ethan discusses another Twitch streamer who is a member of Hasan's Waiting Room, Morgan Kamal Majed p/k/a Frogan, by showcasing numerous instances of her moral bankruptcy. Despite Frogan claiming to support the Palestinian cause, she condemned the large streamer, Ludwig Ahgren ("Ludwig"), by telling him to keep his $10,000 donation to Palestine because Ludwig decided not to organize a charity drive for Palestinians (even though he encouraged his viewers to donate).

iii. Ethan also highlights numerous instances of Frogan's cruelty. In one clip, Frogan wishes soldiers to get PTSD. A few days later (when the clip caused tremendous controversy), Frogan watched the clip while giggling and justifying her take. Despite veterans receiving protected status under Twitch's Community Guidelines, Twitch did nothing to sanction Frogan for these statements. In another clip, Frogan conducts a subathon (a marathon to acquire paid subscriptions) where she promises to make a cake recreating September 11th if she reaches a certain goal. Once again, Twitch did nothing. Ethan highlights the tweet that Frogan made on the morning of October 7th, while the massacre was still ongoing. Frogan's tweet stated: "leftists preach and foam at the mouth at the thought of a revolution happening in america, but as soon as it happens in the middle east what they're doing is wrong" (original spelling). Ethan juxtaposes this tweet with audio of cell phone conversations of victims of October 7th speaking with their parents during their final moments.

iv. Ethan critiques how Twitch props up Frogan, by refusing to sanction her, giving her awards and featuring her on Twitch's home page. He

also mocks Frogan being nominated by her friends twice for a rising star award.

v. Most notably, Ethan lambasts Twitch for allowing Frogan to host a panel at TwitchCon 2024. The panel involved a racial tier list with "Arab" at the top and "Loves Sabra" at the bottom. While the premise of the tier list is who can say the word "Habibi" (an Arabic term of affection), the term "Loves Sabra" was a dog whistle for Jews and Israelis for several reasons. First, Sabra is a well-known Israeli commercial hummus brand that is on the Boycott, Divestment and Sanctions list. Second, the term "Sabra" means a Jew born in Israel. Third, it falsely asserts Israelis misappropriated Arab culture and identity. As evidenced by a clip from Frogan's podcast, the purpose of disseminating this disinformation is to deny the long historical ties of Jews to the Middle East and the Levant. Ethan further highlights the hypocrisy and bigotry of these false claims by noting Arab culture and cuisine is Israeli culture and cuisine because the majority of Israeli Jews are from Arab countries or direct descendants of Jews from Arab countries. Fourth, Ethan was put in the "Loves Sabra" category with Denims "joking" that there should be a lower category for Zionist. Fifth, Ethan notes that Ben Shapiro ("Shapiro") is put in the thumbnail for the video with Ethan – despite Shapiro not being put on the list whatsoever. Rather, the only explanation is that both Ethan and Shapiro are Jewish and married to women born in Israel. Sixth, Ethan notes that the title of the video is *How Arab Are These Twitch Streamers?!* – which belies the assertion that the ranking was merely about hummus. Ethan concludes this segment by pointing out the hypocrisy of the panelists claiming to be concerned with minorities, while refusing to acknowledge why their tier list makes a Jewish man uncomfortable. Finally, Ethan marvels that Twitch approved the panel in the first place.

vi. Ethan critiques a Q&A session Clancy conducted on Twitch shortly after the controversy over the racial tier list erupted. Several chatters for the Q&A session asked Clancy to address the antisemitism on Twitch – all of

whom were banned from the chat.

vii. Ethan addresses the yearlong ban Twitch imposed to prevent Israeli users from creating new Twitch accounts. The ban was enacted on October 13, 2023 (*i.e.*, six days after October 7th) – which is also the Global Day of Jihad (a day of mass rage called for by Hamas leader, Khaled Mashal).[35] Despite numerous instances of Israeli Twitch streamers communicating directly with Twitch about the issue and trying to raise awareness online, Twitch either ignored or obfuscated the issue until there was a massive public outcry.

viii. Ethan goes on to excoriate Twitch for reinstating three well-known antisemites shortly after the ban was discovered: (1) Al-Haddad; (2) Nicolas 'Nico' Kenn De Balinthazy p/k/a Sneako; and (3) Amrou Fudl p/k/a Mryon Gaines from Fresh and Fit. Once again, Twitch reversed course after a public outcry.

ix. Ethan points out how antisemitism and anti-Israel animus appears institutionalized at Twitch. Ethan cites two Twitch employees in leadership positions who made antisemitic and anti-Israel posts online. First is Fadzai Madzingira ("Madzingira") – who was investigated and suspended from her role in the British media regulatory agency, Oxcom. Madzingira was called out in the middle of the United Kingdom's Parliament for her anti-Israel and antisemitic posts shortly after October 7th. After she resigned, Madzingira was hired by Twitch as a Senior Manager in Twitch's Trust & Safety Policy department (*i.e.*, the department

[35] Andrew Jeong, Washington Post, "France Bans Pro-Palestinian Protests Amid Call for Hamas 'Day of Rage'" (Oct. 13, 2023) *available at*: https://www.washingtonpost.com/world/2023/10/13/france-palestine-protest-hamas-day-of-rage/; Simon Wiesenthal Ctr., "Hamas Call for Worldwide 'Day of Rage'", (Oct. 2023), *available at*: https://www.wiesenthal.com/about/news/hamas-call-for-worldwide.html; ABC News Live, "Hamas Declares 'Day of Rage'" (Oct. 13, 2023), https://www.youtube.com/watch?v=dOoNLREwxJs; Meredith Deliso, ABC News, "Hamas 'Day of Rage' Protests Break Out in Middle East and Beyond" (Oct. 13, 2023), https://abcnews.go.com/International/hamas-day-rage-protests-break-middle-east/story?id=103955873.

responsible for the Community Guidelines). Another example is Bridget Kyerematenge – who is Twitch's Senior Manager for Inclusive Marketing – and has a history of making antisemitic and anti-Israel posts, including shortly after October 7th.

x. Ethan concludes the section by critiquing Twitch's biased and inconsistent enforcement of its Community Guidelines. He uses the ban of Steven Bonnell II p/k/a Destiny ("Destiny") as a case study. Destiny was permanently banned from Twitch for calling the streamer and transactivist Clara Sorrenti p/k/a Keffals "inbred." A montage is shown of Hasan repeatedly referring to Jews and Israelis as "inbred" or laughing at Jews being called "inbred." Hasan received no punishment from Twitch because he is Clancy's favorite streamer. Ethan recaps other examples of Hasan flagrant violations of Twitch's Community Guidelines that resulted in no consequences. Not only did Hasan call Jews and Israelis "inbred" and platformed terrorists and terrorist propaganda, Hasan threatened Senator Tom Cotton by replying to Senator Cotton's tweet with a schematic of the weapon used to assassinate Japanese Prime Minister Shinzo Abi. This is followed by a montage of numerous instances of alt-left streamers on Twitch, including Denims, making death threats without any (or minimal) consequences from Twitch.

g. Conclusion (Ex. E at 1:40:30-1:42:05: Ethan ends *The Nuke* by summarizing the two reasons why he made the video. First, to stop Hasan's infiltration of mainstream media. Second, to hold Twitch accountable for enabling antisemitic and anti-Israel animus on its platform.

The *Countdown Episode* and its Registration

41. On January 31, 2025, TEI made a live broadcast of the *Countdown Episode* immediately before releasing *The Nuke*. The *Countdown Episode* covered various topics and was 1:06:21 in duration. A true and correct copy of the Deposit Copy is located on the Flash Drive as Exhibit F.

42. After TEI discovered that Denims infringed the *Countdown Episode*, it registered *The Nuke* with the USCO on March 31, 2025 and given the registration number PAu004257253.

H3Snark Promotes Denims as a Substitute to Watching *The Nuke*

43. Throughout January 2025, Ethan built up public interest in *The Nuke* by frequently discussing it on *The H3 Show*. The audience of Hasan and his Waiting Room – who comprised a large portion of the users on H3Snark – anticipated *The Nuke* with religious fervor to defend their proverbial Grand Mufti from criticism. These fanatics, however, did not want to watch the authorized version *The Nuke* because TEI would reap the benefits from the views and resulting advertising revenue.

44. The H3Snark Mods knew that there was a huge demand to watch *The Nuke* through unauthorized channels and promoted "group viewing sessions" of *The Nuke* as follows:

a. On January 30, 2025 (*i.e.*, the day before the *Countdown Episode* and *The Nuke* were released), Doe No. 3 (*i.e.*, u/jewettornesarah) – as an H3Snark Mod and on behalf of the H3Snark Mods – created a pinned post entitled "MEGATHREAD | Content Nuke – Where to Watch & Discussion" ("First Inducement Post"). As a pinned community post, the First Inducement Post was featured at the very top of the H3Snark page in the "Community highlights" section before any other posts were visible. The H3Snark Mods did this to maximize the visibility of the First Inducement Post. The First Inducement Post featured Denims as a place "to watch the nuke without showing support for H3" (*i.e.*, TEI) and a link was provided to her stream on Twitch. The First Inducement Post also stated that Denims "supported" H3Snark "by engaging directly with [the H3Snark Mods] directly." A true and correct PDF printout of the First Inducement Post is attached hereto as Exhibit G.

b. On January 31, 2025 (*i.e.*, the day the *Countdown Episode* and

The Nuke were released), the H3Snark Mods created and updated a pinned community post entitled "Ethan Klein's Content Nuke on Hasan Piker | H3Snark Megathread" (the "Second Inducement Post"). The Second Inducement Post was also a pinned community post that was featured at the very top of the H3Snark page to maximize visibility. The Second Inducement Post featured Denims as a place "to watch reactions to this video" (*i.e.*, *The Nuke*) and a link was provided to her stream on Twitch. A true and correct PDF printout of the Second Inducement Post is attached hereto as Exhibit H.

c. On January 31, 2025 (*i.e.*, the day the *Countdown Episode* and *The Nuke* were released), the H3Snark Mods created another pinned community post entitled "DENIMS is LIVE reacting now to today's H3 podcast episode and the 'content nuke' video Ethan is publishing in about an hour" (the "Third Inducement Post"). The Third Inducement Post was also a pinned community post that was featured at the very top of the H3Snark page to maximize visibility. A true and correct PDF printout of the Third Inducement Post is attached hereto as Exhibit I.

d. At some point after January 31, 2025, the H3Snark Mods deleted the First Inducement Post, Second Inducement Post and Third Inducement Post to conceal their contributory infringement of the *Countdown Episode* and *The Nuke*.

45. The H3Snark Mods were well aware of Denims' reputation for copyright infringement and lazy reaction videos. As such, the H3Snark Mods knew that it was highly likely Denims' reaction to the *Countdown Episode* and *The Nuke* would be an infringing "group viewing session" of the Works and not a fair use. The H3Snark Mods coordinated with Denims to direct H3Snark users to Denims' "group viewing session" of the *Countdown Episode* and *The Nuke*.

The Law of Fair Use and Reaction Videos

46. Fair use is codified in Section 107 of the Copyright Act. The statute sets forth four non-exclusive factors courts consider to evaluate fair use:

1. [T]he purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. [T]he nature of the copyrighted work;
3. [T]he amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. [T]he effect of the use upon the potential market for or value of the copyrighted work

47. The first fair use factor "relates to the problem of substitution" – *i.e.*, whether the new work "supersedes" or "supplant[s]" the original. *Warhol*, 598 U.S. at 527. The "central question" is whether the secondary work "adds something new, with a further purpose or different character." *Id.* at 528. The mere fact that a secondary use has "some further purpose" or "add[s] something new … does ***not*** render such uses fair." *Id.* at 528-529 (emphasis added). Rather, "whether an allegedly infringing use has a further purpose or different character" is "a ***matter of degree***, and the degree of difference ***must*** be weighed against other considerations, like commercialism." *Id.* at 532 (emphasis added).

48. While a "use that has a further purpose or different character is said to be 'transformative[,]' … 'transformativeness' is a matter of degree." *Warhol*, 598 U.S. at 529. Indeed, "an overbroad concept of transformative use, one that includes any further purpose, or any different character, would narrow the copyright owner's exclusive right to create derivative works." *Id.* "To preserve that right, the degree of transformation required to make 'transformative' use of an original must go beyond that required to qualify as a derivative." *Id.*

49. The "first factor also relates to the justification for the use" both in the "broad sense" and the "narrower sense." *Warhol*, 598 U.S. at 531-532. A use is justified in the "broad sense" if it has a "distinct purpose" that "furthers the goal of copyright, namely, to promote the progress of science and the arts, without diminishing the incentive to create." *Id.* at 531. A use is justified in the "narrower sense" when it "is reasonably necessary to achieve the user's new purpose." *Id.*

Such justification is "particularly relevant to assessing fair use" where "wide dissemination of a secondary work would otherwise run the risk of substitution for the original or licensed derivatives." *Id.* Again, "the question of justification is one of degree." *Id.*

50. A "critical book review" illustrates how a secondary use must be justified both in the broad and narrow sense. *Warhol*, 598 U.S. at 528 fn. 4. In the broad sense, the use of the original serves "a different purpose than the book" (*i.e.*, criticism and commentary). *Id.* In the narrow sense, "each quoted passage within the review likely serves a different purpose (an object of criticism) than it does in the book." *Id.* Critically, this "may not always be so" and "a court must consider each use within the whole to determine whether the copying is fair." *Id.* Consequently, "[e]ven book reviews are not entitled to a presumption of fairness." *Id.*, 598 U.S. at 532 fn. 7.

51. There are several indicia of when a use for criticism or commentary is not sufficiently transformative to justify a secondary use.

a. When the "commentary has no critical bearing on the substance or style of the original composition, the claim to fairness in borrowing from another's work diminishes accordingly (if it does not vanish), and other factors, like the extent of its commerciality, loom larger." *Warhol*, 598 U.S. at 530-531. Indeed, "a loose topical connection" with the original work is equally problematic. *McGucken*, 42 F.4th at 1159.

b. When "a defendant copies more than is necessary to facilitate 'comment or criticism.'" *Penguin Random House LLC v. Colting*, 270 F.Supp.3d 736, 751 (S.D.N.Y. 2017). "The law is clear that, to be considered transformative criticism, the aspects of a work that reproduce another's protected expression must be in service of commentary on that work. It is not enough for part of a work to have a transformative purpose." *Id.*

c. When the "use" of the copyrighted work "is not consistently transformative." *Elvis Presley*, 349 F.3d at 628. For example when "clips are played without much interruption, if any" or "used in excess of [the] benign purpose." *Id.* at 629.

d. The use of "voice overs," "headlines or captions" or "wholesale copying sprinkled with written commentary," fails to sufficiently transform a copyrighted work under the first fair use factor. *Monge*, 88 F.3d at 1174, 1176; *Elvis Presley*, 349 F.3d at 628-629. Additionally, "[w]hen a copyrighted work is used simply to illustrate what that work already depicts, the infringer adds no further purpose or different character" and "copyright law treats the infringer as freeriding on the inherent value of the original work." *McGucken*, 42 F.4th at 1158.

e. The first fair use factor "does not" favor "any user who wants to reach different buyers, in different markets, consuming different products." *Warhol*, 598 U.S. at 548 fn. 22.

52. As mentioned, the degree to which a secondary use has a different purpose or character, "must be weighed against other considerations, like commercialism." *Warhol*, 598 U.S. at 525. "The undisputed commercial character of [the defendant's] use, though not dispositive, tends to weigh against a finding of fair use." *Id*. at 537.

53. Commercialism examines "the degree to which the new user exploits the copyright for commercial gain—as opposed to incidental use as part of a commercial enterprise." *Elvis Presley*, 349 F.3d at 627. Courts consider whether the defendant was "motivated by profits" and "profited from the publication." *Monge*, 688 F.3d at 1176. Further, if the defendant "is not advertising a scholarly critique or historical analysis, but instead seeks to profit at least in part from the inherent entertainment value" of the original, the use is commercial. *Elvis Presley*, 349 F.3d at 628. Finally, commercialism exists "when a secondary user makes unauthorized use of copyrighted material to capture significant revenues as a direct consequence

of copying the original work." *Blanch v. Koons*, 467 F.3d 244, 253 (2d Cir. 2006).

54. In *Hosseinzadeh*, the Court found the first fair use factor favored fair use because the Klein video was "quintessential criticism and comment … on the Hoss video" – namely consistent "mockery" of Matt Hoss' "performance … dialog and plotlines." 276 F.Supp.3d at 40, 45-46. The Klein video was consistently transformative by "intersperse[ing] relatively short segments of the Hoss video with long segments of the Kleins' commentary." *Id.* at 40.

55. The second fair use factor (*i.e.*, "the nature of the copyrighted work") "typically has not been terribly significant in the overall fair use balancing." *McGucken*, 42 F.4th at 1161. This factor examines "the extent to which [the original work] is creative and whether it is unpublished." *Id.* Even when a work "document[s] a real event," the work can still be "creative because [it is] the product of many technical and artistic decisions." *Id.* Whether a work is published is defined by whether the author exhausted the "right to control the first public appearance" of the work. *Monge*, 688 F.3d at 1178. The mere fact a work is published "does not weigh in favor of fair use." *McGucken*, 42 F.4th at 1162.

56. In *Hosseinzadeh*, the Court found the second fair use factor "weigh[ed] against a finding of fair use" because the Hoss video was "a creative work" – despite the work being published. 276 F.Supp.3d at 46.

57. The third fair use factor examines "the quantitative amount and qualitative value of the original work used in relation to the justification for that use." *McGucken*, 42 F.4th at 1162. Consequently, the third fair use "factor circles back to the first factor because the extent of permissible copying varies with the purpose and character of the use." *Id.*

58. When "the amount used is substantial with respect to the infringing work, it is evidence of the value of the copyrighted work." *Elvis Presley*, 349 F.3d at 630. Indeed, "[c]opying an entire work militates against a finding of fair use." *VHT, Inc. v. Zillow Group, Inc.*, 918 F.3d 723, 744 (9th Cir. 2019). If, however,

"the new user only copies as much as necessary for his or her intended use, this factor will not weigh against the new user." *Elvis Presley*, 349 F.3d at 630.

59. In *Hosseinzadeh*, the Court found that the third fair use factor was "neutral" because, while the Klein video copied "a great deal" of the Hoss video, "the 'extent' and 'quality and importance' of the video clips used by [the Kleins] were … plainly necessary to the commentary and critique." 276 F.Supp.3d at 46.

60. The fourth fair use factor is the "undoubtedly the single most important element of fair use." *Harper & Row Publishers, Inc. v. Nation Enterprises*, 471 U.S. 536, 566 (1985). "While the first fair use factor considers whether and to what extent an original work and secondary use have substitutable purposes, the fourth factor focuses on actual or potential market substitution." *Warhol*, 598 U.S. at 536 fn. 12.

61. The fourth fair use factor "encompasses both (1) the extent of market harm caused by the particular actions of the alleged infringer, and (2) whether unrestricted and widespread conduct of the sort engaged in by the defendant would result in a substantially adverse impact on the potential market for the original and the market for derivative works." *McGucken*, 42 F.4th at 1163. Even when there is "little direct evidence of actual market harm" caused by the secondary use, "to negate fair use," the plaintiff "need only show that if the challenged use should become widespread, it would adversely affect the ***potential*** market for the copyrighted work." *Id.* (original emphasis).

62. The fourth fair use factor also "must take into account the public benefits the copying will likely produce." *Google LLC v. Oracle America, Inc.*, 593 U.S. 1, 35 (2021). In other words, does the use "serve copyright's goal of enriching public knowledge." *Warhol*, 598 U.S. at 531 (quoting *Authors Guild v. Google, Inc.*, 804 F.3d 202, 214 (2d Cir. 2015) (Level, J.). When the original work is associated with "dangerous misinformation," it does not serve the public benefit and results in "actual and reputational harm" to the market for the original work –

even when the "primary markets … do not meaningfully overlap." *National Academy of Television Arts and Sciences, Inc. v. Multimedia System Design, Inc.*, 551 F.Supp.3d 408 (S.D.N.Y. 2021).

63. In *Hosseinzadeh*, the Court found the fourth fair use factor "weighs in favor of a determination of fair use." 276 F.Supp.3d at 47. The Klein video did not "usurp[] demand for the copyrighted work, thereby resulting in a loss for the infringee or unjust enrichment for the infringer." *Id.* at 46. To the contrary, "the Klein video [did] not serve as a market substitute for the Hoss video" because the Klein video "transform[ed] the Hoss video from a skit into fodder for caustic, moment-by-moment commentary and mockery." *Id.* at 47. Consequently, "the Klein video [did] not offer a substitute for the original." *Id.*

Denims' "Group Viewing Session" Failed to Make a Fair Use of the *Countdown Episode*

64. It is readily apparent that the primary and overriding purpose of Denims' use of the *Countdown Episode* was to commercially exploit a "group viewing session" of the *Countdown Episode* and have it serve as a substitute for the original.[36] This is evidence by:

a. Watching long sections of the *Countdown Episode* without any (or very little interruption) – frequently for several minutes at a time.[37]

[36] Denims' broadcast on Twitch on January 31, 2025 was over ten hours long. Due to the file size, Denims' January 31, 2025 broadcast is separated into two video files. A true and correct copy of Part 1 of Denims' January 31, 2025 broadcast is located on the Flash Drive as Exhibit J. A true and correct copy of Part 2 of Denims' January 31, 2025 broadcast is located on the Flash Drive as Exhibit K.

[37] *See e.g.*, Ex. K at 9:30-12:09, 12:14-14:36, 14:55-16:25, 17:45-18:51, 19:06-20:25, 24:09-25:22, 23:40-26:40, 26:48-27:18, 27:25:30:22, 30:27-32:23, 33:41-35:59; 36:05-36:37, 37:22-38:16, 38:20-39:07, 42:53-44:36, 44:43-45:21, 45:24-46:06, 46:17-46:48, 46:52-48:04, 48:23-50:40, 50:45-51:49, 51:58-54:12, 54:19-54:43, 54:48-56:44, 57:02-58:42, 59:08-59:54, 1:00:01-1:01:45, 1:01:57-1:02:50, 1:03:16-1:04:04, 1:04:06-1:05:36, 1:07:47:1:09:05, 1:09:13-1:10:20, 1:11:39-1:13:05, 1:13:45-1:14:22, 1:14:35-1:15:18.

b. In a completely separate instance, Denims provides an "empty chair reaction" – *i.e.*, letting the *Countdown Episode* play while Denims is completely off-screen. At a certain point, Denims informs her audience that: "She is going to pee." Ex. K at 39:08. For two minutes and twenty-one seconds, Denims lets the *Countdown Episode* play while she is off-screen relieving herself. *Id.* at 39:18-41:40. When she returns, Denims is silent for an additional minute. *Id.* at 41:41-42:41.

c. In total, Denims' "group viewing session" of the *Countdown Episode* was 1:03:56. During the group viewing session, Denims provided approximately: (1) four minutes and forty-three seconds of brief and superficial commentary that usually has little critical bearing on the *Countdown Episode*;[38] (2) forty-three seconds of partially related commentary on the *Countdown Episode* that meanders into unrelated topics;[39] and (3) two minutes and twelve seconds of unrelated or unintelligible comments.[40] In simple terms, out of a total runtime of 1:03:56, the *Countdown Episode* played uninterrupted for nearly 88% of the total runtime.

d. Denims also had the *Countdown Episode* take up approximately three-quarters of the screen, while she only occupies approximately a quarter of the screen that deemphasizes her presence. Denims' objective was to provide a large and unobstructed view of the *Countdown Episode* to her audience – which further emphasizes her primary purpose was to provide a substitute for the original.

e. Denims' use of the *Countdown Episode* was clearly commercial. Not only did she receive paid subscriptions, donations and advertising revenue

[38] *See e.g.*, Ex. K at 12:09-13, 14:37-54, 16:26-27, 17:02-16, 17:37-44, 32:24-33:40, 36:00-04, 37:19-21, 38:17-19, 42:42-52, 44:37-42, 45:22-23, 46:07-16, 46:49-51, 51:50-57, 54:13-18, 54:44-47, 56:45-57:01, 58:43-44, 58:52-59:07, 59:55-1:00:00, 1:01:46-56, 1:05:37-43, 1:05:55-1:06:47, 1:07:02-07, 1:07:44-46, 1:09:6-12, 1:10:21-28, 1:10:58-11:02, 1:11:31-38, 1:15:19-26.

[39] *See e.g.*, Ex. K at 18:52-19:05, 50:41-44, 1:02:51-1:03:15

[40] *See e.g.*, Ex. K at 20:20-23:39, 23:40-47, 24:02-08, 25:23-40, 26:41-47, 27:19-31, 30:23-26, 36:38-39, 48:05-22, 1:04:05, 1:07:20-22, 1:13:06-44, 1:14:23-24.

during her "group viewing session" (*see e.g.*, Ex. K at 24:02-08), she used the *Countdown Episode* to advertise her "group viewing session" of the *Nuke*, as evidenced by:

i. Early on in her "group viewing session," Denims adds a chyron at the top of the screen stating: "CONTENT NUKE DROPS AT 1:30 PM PST." *See e.g.*, Ex. K at 0:34 (original emphasis).

ii. Early on in her "group viewing session," Denims adds a countdown timer for when *The Nuke* will be publicly released. *See e.g.*, Ex. K at 16:48.

iii. Encouraging people to watch her "group viewing session" of *The Nuke* by stating: "***If you want to watch it, you know, come enjoy the watch party somewhere else***." Ex. K at 23:40-47.

65. As to the second fair use factor, the fact that the *Countdown Episode* was simultaneously broadcast with Denims' "group viewing session" does not weigh in her favor. Further, while containing numerous factual elements, the *Countdown Episode* contains numerous creative elements, which weigh against fair use.

66. As to the third fair use factor, this factor weighs heavily against fair use. It is readily apparent Denims' use was excessive for any potential criticism of the *Countdown Episode* – particularly in light of the minimal level of commentary and highly commercial nature of Denims' "group viewing session."

67. The fourth (and most important) fair use factor weighs heavily against fair use. It is readily apparent that Denims intended (and succeeded) to provide a market substitute for the *Countdown Episode* for the reasons set forth below:

a. Broadcasting her "group viewing session" of the *Countdown Episode* at the same time the *Countdown Episode* was broadcast.

b. Showing nearly the entire *Countdown Episode* with minimal commentary.

c. The First Inducement Post, the Second Inducement Post and the Third Inducement Post by the H3Snark Mods.

d. Due to Denims' siphoning the audience for the *Countdown Episode* to her "group viewing session," TEI lost views and advertising revenue it would ordinarily receive from the individuals who watched Denims' "group viewing session" instead of the *Countdown Episode*.

e. If Denims' conduct were to become widespread (*i.e.*, simultaneously broadcasting a TEI podcast episode with minimal commentary), it would result in further lost views and advertising revenue to TEI.

Denims' "Group Viewing Session" Failed to Make a Fair Use of *The Nuke*

68. As demonstrated below, Denims' "group viewing session" of *The Nuke* exemplifies her beliefs about copyright that she expressed during Reactgate. Denims' "group viewing session" of *The Nuke* epitomizes: (1) her unfounded opinion that copyright infringement and fair use principles are inapplicable in the context of livestreaming (particularly on Twitch); (2) her misguided notion that she is not obligated to transform a copyrighted work with substantial, critical commentary and editing; and (3) her narcissistic and misplaced sense of privilege that her "personality" is sufficient to justify the highly commercial, unauthorized exploitation of a copyrighted work in its entirety.

69. Denims' "group viewing session" of *The Nuke* was the pinnacle of her career. At its peak, Denims' "group viewing session" of *The Nuke* received approximately 45,800 concurrent viewers. This was exponentially more concurrent viewers than Denims ever received in her entire career. Denims' "group viewing session" of *The Nuke* also put Denims' online career into overdrive. In the days leading up to her "group viewing session," Denims' peak concurrent viewers ranged from approximately 3,100-4,500. After her "group viewing session" of *The Nuke*, Denims' concurrent viewers ranged from 5,100 to 6,700. Below are true and correct screenshots from the page for Denims' Twitch channel on Twitch Tracker –

a website that compiles statistical data on Twitch Streamers:

70. It is readily apparent that the primary and overriding purpose of Denims' "group viewing session" of *The Nuke* was to provide a substitute for the original. It is equally obvious that any "commentary" of *The Nuke* was an afterthought.

a. Denims made numerous statements explicitly stating her "group viewing session" was intended to serve as a substitute for *The Nuke.*

i. Denims entitled her "group viewing session": "ETHAN KLEIN HASAN CONTENT NUKE **WATCH PARTY** THIS IS NOT A DRILL" (original and added emphasis).

ii. Shortly before her "group viewing session" of *The Nuke*, Denims reads a message from her chat stating: "***We're relying on you to stay live so we don't give more views to the Nuke***." Denims replies with: "***Yeah, I'm going to. I'm going to stream it since he [i.e., Ethan] confirmed it's coming out today. We're going to stream it***." Ex. J at 4:48:38-4:48:48.

iii. Immediately prior to and throughout Denims' "group

viewing session" of *The Nuke*, she prominently displayed a chyron at the top of the screen that stated: "***Watching Hasan Content Nuke From Ethan Klein***." Ex. K at 1:15:03.

iv. During Denims' "group viewing session," Denims responds to a chatter by stating: "***Unfortunately, we are watching the Ethan Nuke***." Ex. K at 2:06:09-23

v. Immediately after her "group viewing session" of *The Nuke*, Denims states:

1. "***Well guys, if you enjoyed not giving any views to that terrible video, follow, subscribe, throw a prime, if you like the content, if you enjoyed your time here***." Ex. K at 5:07:45-58.

2. "***I appreciated you guys tuning in with me because, I'm going to be honest, I did not want to watch that by myself***." Ex. K at 5:08:04-09.

vi. On February 1, 2025 (*i.e.*, the day after Denims' "group viewing session" of *The Nuke*),[41] Denims stated:

> Later, after streaming, I found out I got signal boosted by Hasan, Hascord and the Subreddit – what is it called – H3Snark. And I know ***all of those people didn't want to give the video [i.e., The Nuke] another view***. ***Which is why they watched it with me.*** And probably a lot of people – 'cause they ended their H3 Show immediately before releasing the video – ***so there probably was a lot of people that came to watch it here***, because they wanted to see what someone who would disagree with it would say.

vii. Denims attempt to feign ignorance of H3Snark is transparently (and comically) false. Rather, it is clear that Denims and the H3Snark Mods coordinated their efforts. Indeed, after ending her "group viewing session" of *The Nuke*, Denims' screen shows that she had the H3Snark subreddit on her screen the entire time. Ex. K at 5:07:16.

[41] A true and correct clip from Denims' February 1, 2025 is located on the Flash Drive as Exhibit L.

b. Denims begins her "group viewing session" of *The Nuke* one minute after *The Nuke* was released to the public. Ex. K at 1:15:19. The timing of Denims' "group viewing session" of *The Nuke* demonstrates that she did not prescreen it to formulate her opinions prior to broadcast. Rather, Denims timed her "group viewing session" to occur immediately after *The Nuke* was released to capitalize on the great public interest in *The Nuke* and siphon as many viewers as possible away from the original to herself. In other words, her priority was to personally and financially benefit from providing a substitute for the original and any commentary and criticism was a mere afterthought.

c. On ***seventy-four*** separate occasions, Denims' "group viewing session" consisted of watching *The Nuke* for ***thirty seconds or more with no commentary whatsoever*** (or, at most, an unintelligible word or phrase). In total, these excerpts comprise over 70 minutes of *The Nuke* – *i.e.*, ***70% of its total runtime***. The poverty of Denims' commentary – coupled by frequently showing long, unadulterated portions of *The Nuke* – further demonstrates that the overriding and dominant purpose of Denims' "group viewing session" was to serve as a substitute for the original and not to provide critical commentary.

	Timestamps from Denims' "Group Viewing Session" Comprising 30 Seconds or More of Just *The Nuke*	**Total Duration**
1	1:15:38-1:16:09	42 Seconds
2	1:16:56-1:19:10	135 Seconds
3	1:19:33-1:20:59	90 Seconds
4	1:21:41-1:22:11	31 Seconds
5	1:24:12-1:25:14	63 Seconds
6	1:25:43-1:27:28	106 Seconds
7	1:36:01-1:37:10	70 Seconds
8	1:37:44-1:38:15	32 Seconds

	Timestamps from Denims' "Group Viewing Session" Comprising 30 Seconds or More of Just *The Nuke*	Total Duration
9	1:39:16-1:39:55	40 Seconds
10	1:41:47-1:43:05	79 Seconds
11	1:46:59-1:48:12	74 Seconds
12	1:48:18-1:49:15	58 Seconds
13	1:57:33-1:58:07	35 Seconds
14	1:58:51-2:00:37	47 Seconds
15	2:00:58-2:01:29	32 Seconds
16	2:01:56-2:02:45	50 Seconds
17	2:03:31-2:04:07	37 Seconds
18	2:06:24-2:07:24	61 Seconds
19	2:11:07-2:12:01	55 Seconds
20	2:12:26-2:13:04	39 Seconds
21	2:13:30-2:14:20	51 Seconds
22	2:16:19-2:17:08	50 Seconds
23	2:17:16-2:18:00	45 Seconds
24	2:18:15-2:19:40	86 Seconds
25	2:20:34-2:22:20	107 Seconds
26	2:29:01-2:31:19	139 Seconds
27	2:32:01-2:33:00	60 Seconds
28	2:33:32-2:35:10	99 Seconds
29	2:39:46-2:41:04	79 Seconds
30	2:42:04-2:43:53	110 Seconds
31	2:45:04-2:45:35	32 Seconds
32	2:45:47-2:47:04	78 Seconds

	Timestamps from Denims' "Group Viewing Session" Comprising 30 Seconds or More of Just *The Nuke*	Total Duration
33	2:47:26-2:47:56	31 Seconds
34	2:48:04-2:49:50	107 Seconds
35	2:51:20-2:52:29	70 Seconds
36	2:57:25-2:58:13	49 Seconds
37	2:59:23-3:00:39	77 Seconds
38	3:04:52-3:05:36	45 Seconds
39	3:06:16-3:07:17	62 Seconds
40	3:10:42-3:11:21	40 Seconds
41	3:12:02-3:12:57	56 Seconds
42	3:16:59-3:17:46	48 Seconds
43	3:17:49-3:18:20	32 Seconds
44	3:24:15-3:25:32	78 Seconds
45	3:25:48-3:36:53	66 Seconds
46	3:28:23-3:29:49	87 Seconds
47	3:26:27-3:37:38	72 Seconds
48	3:40:15-3:40:55	41 Seconds
49	3:41:29-3:42:48	80 Seconds
50	3:44:41-3:45:33	53 Seconds
51	3:48:32-3:49:12	41 Seconds
52	3:51:04-3:43:45	105 Seconds
53	3:56:03-3:56:56	54 Seconds
54	3:59:16-3:59:50	35 Seconds
55	4:00:44-4:02:23	40 Seconds
56	4:12:58-4:13:32	35 Seconds

	Timestamps from Denims' "Group Viewing Session" Comprising 30 Seconds or More of Just *The Nuke*	Total Duration
57	4:19:37-4:20:09	33 Seconds
58	4:21:51-4:22:36	46 Seconds
59	4:23:49-4:24:30	42 Seconds
60	4:25:57-4:26:30	34 Seconds
61	4:28:24-4:29:10	47 Seconds
62	4:36:07-4:36:47	41 Seconds
63	4:38:05-4:39:40	96 Seconds
64	4:39:47-4:40:25	39 Seconds
65	4:41:17-4:42:12	56 Seconds
66	4:43:11-4:44:23	73 Seconds
67	4:45:39-4:46:11	33 Seconds
68	4:46:49-4:47:32	44 Seconds
69	4:47:52-4:48:30	39 Seconds
70	4:52:41-4:53:41	61 Seconds
71	4:54:53-4:55:31	39 Seconds
72	5:00:50-5:01:36	47 Seconds
73	5:04:00-5:04:31	32 Seconds
74	5:05:24-5:06:20	115 Seconds

d. For the majority of her "group viewing session," Denims speaks briefly after showing a much longer excerpt of *The Nuke*. The fact that the excerpts Denims shows of *The Nuke* frequently eclipse her statements further emphasizes that the primary purpose of her "group viewing session" was to provide a substitute for the original and any "commentary" was merely an afterthought.

e. During Denims' group viewing session, she admits she is not providing sufficient commentary because she does not want to pause frequently. This further emphasizes the primary purpose of her "group viewing session" was to "watch" *The Nuke* and any "commentary" was an afterthought.

i. "***If I sat here and explained why he was wrong for like half of these things, we would be here for another 20 hours. I've gone in and tried to explain why he's incorrect on like one in every 10 incorrect takes because I'm not trying to spend an entire week here***."[42] Ex. K at 3:00:53-3:01:36.

ii. "***I don't even understand what to say about because, yeah, this is wrong because of this, this, this, this. Another wrong take. Another wrong take. Okay, well, I just paused it for 10 minutes. I feel bad pausing it again 'cause surely there'll be something better here***." Ex. K at 3:01:49-3:02:09.

f. Denims' admission that she failed to address the majority of points raised in *The Nuke* is self-evident. This further emphasizes that Denims' primary purpose was to host a "group viewing session" of *The Nuke* and that any criticism was an afterthought.

i. Denims fails to address the following points raised in the Prologue of *The Nuke*: (1) Ethan's criticism of Hasan's takes on Russian and Chinese imperialism and genocide, particularly Crimea and the Uyghurs; (2) the torrent of antisemitic comments Ethan received from Hasan's chat after October 7th; (3) the primary difference of opinion between Ethan and Hasan on the Israel-Palestine conflict; (4) footage showing Hasan supporting terrorism and expressing hatred of liberals; and (5) Ethan's concern that Hasan radicalized his audience.

ii. Denims fails to address the majority of the Twitch Parody Sketch.

iii. Denims fails to address the following points raised in the

[42] As explained below, Denims does a horrendous job of explaining why the points raised in *The Nuke* are supposedly wrong – including cursory and unsubstantiated assertions, flat out misrepresentations and even proving herself wrong.

Houthi Section of *The Nuke*: (1) Ethan's criticism of Houthi atrocities, namely recruiting child soldiers, shelling and blocking aid to civilians, ruining agricultural land, oppression of women and slavery, including how this contradicts leftist values; (2) how Hasan violated Twitch's community guidelines by promoting and glorifying Houthi propaganda to Nick, including the Houthi music video and the hijacking of the *Galaxy Leader*; (3) Ethan's criticism of Hasan's glorification of another Houthi music video and its juxtaposition to the Miami Boys Choir; (4) the majority of Ethan's criticisms of Hasan holding himself out as a journalist and his interview of Al-Haddad; (5) the evidence demonstrating that Al-Haddad is a member of the Houthis; and (6) how Hasan uses genocide to deflect criticism.

iv. Denims fails to address the following points raised in the Hezbollah Section of *The Nuke*: (1) Ethan's criticisms of Hezbollah's atrocities, including how this contradicts leftist values; (2) the majority of Ethan's criticism of Hasan attempting to radicalize Nick; and (3) Hasan's apologia for Hezbollah.

v. Denims fails to address the following points raised in the Hamas Section of *The Nuke*: (1) Ethan's criticism of Hamas atrocities and its leaders, along with how this contradicts leftist values; (2) Ethan's criticism of Hasan glorifying Hamas propaganda; and (3) Ethan's thesis on how to achieve peace in the conflict.

vi. Denims fails to address the following points raised in the Twitch Section of *The Nuke*: (1) Clancey's ineffectiveness as a CEO and forcing Twitch employees to participate in Hasan's "Happy Birthday" video; (2) Ethan's criticism of Frogan's purity test of Ludwig and how Twitch props up Frogan; (3) the reasons why the racial tier list made Ethan uncomfortable; (4) Clancy banning people asking about antisemitism during the Q&A session; (5) Twitch re-platforming and hiring antisemites; and (6) Twitch's biased and inconsistent enforcement of its Community Guidelines.

g. Denims even mocks *The Nuke* for making a fair use of third-

party clips by stating: "***Isn't it weird that a lot of these clips are like 5 seconds short. Not 5 seconds long. 5 seconds short***." Ex. K at 1:43:23-32. This statement reveals Denims' complete and total ignorance of fair use – particularly in the context of reaction videos.

h. When Denims does speak during her "group viewing session," most of her statements are brief – particularly in relation to the preceding segment shown of *The Nuke* – and have no critical bearing (or minimal critical bearing) on the style or substance of *The Nuke.* Below are some examples:

i. On numerous occasions, Denims makes utterances that are completely incoherent or unclear. Ex. K at 1:19:11-15, 1:21:00-07, 1:22:12-14, 2:12:02-04, 2:14:55-56, 2:37:05-14, 2:47:57-2:48:03, 3:24:35-3:24-14, 4:24:47-56, 4:31:01-18; 4:52:36-40.

ii. Denims spends time speaking with her chat about topics completely unrelated or only minimally related to *The Nuke*. Ex. K at 3:19:42-3:20:19, 3:20:24-34, 3:23:35-3:24:14, 3:29:45-3:30:14, 3:37:46-50, 3:38:52-3:39:12, 3:43:41-55, 3:48:13-16, 3:50:15-30, 3:50:44-3:51:03, 4:02:32-35, 4:21:34-50, 4:22:37-52, 4:31:40-53, 4:34:14-44, 4:42:17-19

iii. Denims spends time discussing unrelated (or minimally related) topics, such as: (1) an unrelated meme (Ex. K at 1:37:37-43); (2) conducting a poll (*id.* at 1:38:23-33); (3) referencing the length of *The Nuke* (*id.* at 1:58:48-50, 4:46:35-38); (4) announcing a raid (*i.e.*, another streamer directing their audience to Denims) (*id.* at 2:06:05-08); (5) attacking a chatter who critiques her (*id.* at 2:39:09-45); (6) claiming she is "going insane" (*id.* at 2:45:36-46); (7) that she wants to play the videogame *Marvel Rivals* (*id.* at 3:01:37-48); (8) her cat (*id.* at 4:20:10-32); (9) that the streamer Imane Anys p/k/a Pokimaine (who, like Denims, is of Moroccan ancestry) speaks fake Arabic (*id.* at 4:32:58-4:33:06); (10) making crass jokes about Ben Shapiro and his love life (*id.* at 4:35:39-4:36:06); and (11) a technical issue (*id.* at 4:40:58-4:41:07).

iv. Denims frequently makes superficial comments with little to no elaboration, such as: (1) *The Nuke* resembles a "high school project" or "middle school project" (Ex. K at 1:21:14-40, 5:04:58-5:05:23); (2) narrating what is depicted (*id.* at 1:46:42-50); (3) that Ethan is "so brave" (*id.* 2:03:28-30); (4) Ethan's performance resembles someone on the "first day of acting class" (*id.* at 2:16:17-18); (5) that she is "going to die of cringe" and begs it to "end" (*id.* at 2:17:09-15); (6) that Ethan is "crashing out" (*id.* 2:19:41-2:20:03); (7) complaining about the editing (*id.* 2:41:05-07, 4:43:56-4:54:08); (8) that the video treats the audience as "morons" and is trying to "trick" them (*id.* at 3:46:23-37); (9) that Ethan is putting out "garbage" (*id.* at 3:59:51-56); (10) complimenting her own outfit (*id.* at 4:30:29-30); and (11) excitement that a particular clip of her is shown in *The Nuke* (*id.* 4:57:40-51).

v. Since Denims did not prescreen *The Nuke*, she frequently expresses confusion about a particular excerpt of *The Nuke* she just watched. *See e.g.*, Ex. K at 1:39:16-55, 1:41:47-1:43:22, 1:38:34-1:39:15, 1:46:59-1:48:17, 3:03:21-49, 3:40:15-3:41-28, 4:38:05-4:39:40.

i. Since Denims did not prescreen *The Nuke*, she frequently makes comments that are later contradicted by *The Nuke* itself. If Denims' primary purpose was to comment on *The Nuke*, she could have easily avoided these embarrassing moments by watching *The Nuke* beforehand and taking the time to formulate her critique. The reason Denims failed to do so is obvious: her primary purpose was to host a "group viewing session" of *The Nuke* immediately upon its release and any commentary was an afterthought. Below are some examples of Denims making comments on *The Nuke* that are later refuted by *The Nuke* itself:

i. In the section of *The Nuke* discussing Hasan's apologia of China's genocide and enslavement of the Uyghurs, she claims that Ethan fails to point out how Hasan is wrong. Ex. K at 1:21:41-1:22:39, 1:24:12-1:25:42. Shortly after making these comments, *The Nuke* provides the evidence that Denims claims

was absent. *Id.* at 1:25:43-1:27:28, 1:36:01-1:37:10. After seeing the evidence, Denims just expresses confusion. *Id.* at 1:37:11-13.

ii. In the section discussing the type of fans Hasan attracts (such as the online content creator Dating and Money), Denims claims that Dating and Money is not a Hasan fan, but a fan of another streamer. Immediately after making this comment, *The Nuke* shows a clip of Dating and Money meeting Hasan and effusively praising him. Ex. K at 2:00:58-2:03:10.

iii. In the section discussing Al-Haddad, Denims claims there is no evidence demonstrating he is a member or supporter of the Houthis. Ex. K at 2:47:05-25. Shortly thereafter, *The Nuke* shows Al-Haddad's social media posts that refute this assertion and Denims provides no comment.[43] *Id.* at 2:55:25-2:56:25.

iv. In the section discussing Nasrallah, Denims claims that the difference between Ethan and Hasan is that Ethan praised former Israeli Minister of Defense, Yoav Gallant (which is false), and Hasan never praised Nasrallah. Immediately after making the claim, Denims plays an excerpt of *The Nuke* where Hasan praises Nasrallah. Ex. K at 3:14:55-3:17:48.

v. In the section discussing the systematic use of rape on October 7th, Denims repeatedly denies any rapes occurred. She is immediately confronted with the headlines from news organizations, victim testimony and a United Nations report refuting her denials. Ex. K at 3:33:49-3:35:34, 3:42:49-3:45:33.

vi. When Ethan cites the ban of Destiny as an example of Twitch's inconsistent enforcement of its community guidelines, Denims claims that the ban was due to Destiny's statements condoning Kyle Rittenhouse killing

[43] On or around May 21, 2025, in response to a direct question about his Houthi affiliation, Al-Hadad stated in Arabic, "Yemenis are Houthi"—an expression that, in the Yemeni dialect implies the "true" Yemenis are Houthi. His phrasing appeared calculated to affirm solidarity while technically avoiding a direct acknowledgment. *See* https://imgur.com/a/pnYUfi8

protestors – only to realize that the ban was due to Destiny calling Keffals "inbred." Ex. K at 4:50:32-4:52:10.

j. Due to Denims' inability to critique the style or substance of *The Nuke*, she frequently goes on long and completely unrelated tangents that have nothing to do with the style or substance of *The Nuke*. Some notable examples are provided below:

i. After Ethan's critique of Hasan's apologia of Chinese imperialism and authoritarianism, Denims goes on a nonsensical tangent about the Chinese credit score system – which is not discussed or referenced in *The Nuke* whatsoever. Ex. K at 1:22:40-1:24:11.

ii. After Ethan's critique of Hasan's apologia of China's genocide of the Uyghurs, Denims goes on a rambling diatribe about: (1) that no one cares about the Uyghurs; (2) western media; (3) the United States is worse than China; (4) falsely stating that disabled Americans lose disability benefits when they get married;[44] (5) incarceration levels in the United States; and (6) the treatment of transgender individuals in the United States. Ex. K at 1:25:43-1:35:51.

iii. After Ethan's critique of Frogan, Denims goes on a protracted tangent about how Frogan is more American than her. Ex. K at 4:14:35-4:19:36.

k. True to form, Denims makes statements based on hallucinatory misrepresentations of the contents of *The Nuke*. By shadowboxing an imaginary version of *The Nuke* completely divorced from reality, Denims fails to address the actual style or substance of the original. Some notable examples include:

i. In the section of *The Nuke* concerning Ethan and Hasan's discussion shortly after October 7th, Ethan critiques an online figure supported by Hasan who legitimizes killing Israeli infants by calling them "baby settlers" (and

[44] Social Security Administration, "If I get married, will it affect my benefits?" (Jan. 23, 2025), *available at*: https://www.ssa.gov/faqs/en/questions/KA-02172.html

Hasan's attempt to justify the use of the term). Denims misrepresents the excerpt and claims Ethan called Palestinian infants "baby terrorists" and Hasan attempted to humanize the infants of Israeli settlers. Ex. K at 1:43:55-1:45:19.

ii. In the section where Ethan critiques Hasan's "head mod," Denims claims that Ethan called Frogan the "head mod" – despite Ethan never making such a statement. Ex. K at 1:37:44-1:38:22.

iii. After Ethan explains that he is now called a "Nazi" after advocating a two-state interim solution, Denims claims Ethan asserted that Hasan told people to call him a Nazi – which Ethan never claimed.[45] Ex. K at 2:00:45-57.

iv. After Ethan critiques Hasan's claim that the Houthis hijacked ships to cause Israelis to ***leave*** Israel from the economic inconvenience, Denims rewrites the excerpt by claiming Hasan stated the Houthis are placing economic pressure on Israelis to induce them ***to pressure their government*** to end the war in Gaza. Ex. K at 2:36:47-2:37:04.

v. After Ethan shows photographs he took in Israel of Mizrahi Jews preparing and selling hummus, Denims makes the bizarre claim that Ethan is assuming they are Israelis – despite Ethan having just explained that they were photographs of Mizrahi Jews from Israel. Ex. K at 4:28:24-4:29:11.

l. Again, true to form, Denims repeatedly makes brief, blithe and unsubstantiated assertions throughout her "group viewing session" of *The Nuke*. The vast majority of these remarks are misleading or false. Denims' unwillingness or inability to substantiate her assertions further emphasize that Denims' primary purpose was – not to critique *The Nuke* – but to provide a substitute for it. If the opposite were true, Denims would have taken the time to compile the evidence to substantiate her assertions. Examples include:

[45] On April 24, 2025, Hasan stated that "any kind of fucking Zionist tendencies, should be treated in the same way as being a fucking rabid neo-nazi." HasanAbiVODs, *HasanAbi April 24, 2025* – (Apr. 25, 2025), at 7:56:04-7:57:41 *available at*: https://youtu.be/Ny_EZm7s80I?si=NEVU0_DjufIoQiy6&t=28564

i. After Ethan critiques Hasan for employing rhetoric that reveals he does not consider Israelis to be human (Ex. K at 1:43:33-39), Denims makes the conclusory assertion that Ethan defamed Hasan without any further explication. *Id.* at 1:43:40-54.

ii. Frequently, Denims claims that Ethan uses clips out of context – yet she never shows or explains the omitted context. *See e.g.*, Ex. K at 1:40:23-30; 2:43:53-2:44:16; 3:00:53-3:01:36, 3:37:39-3:38:29.

iii. Denims repeatedly claims that Ethan praised Israel's former Minister of Defense, Yoav Gallant. Ex. K at 2:00:38-44, 3:15:55-3:16:15. This is false, as demonstrated below.

1. On November 6, 2024, Hila critiqued Israeli Prime Minister Benyamin Netanyahu by stating: "Just the other day, Bibi fired a really good guy that a lot of people are pissed about and he fired him 'cause they had a disagreement." Ethan clarified by stating he was a "moderating voice in the War Room."[46] This was correct insofar as Netanyahu fired Gallant – in large part – due to Gallant's criticism of Netanyahu's handling of the War in Gaza and the Israeli public protested Gallant's dismissal.[47]

2. On November 8, 2024, after Hila was criticized for calling Gallant a "really good guy," Ethan clarified and provided context to the statements – with Hila adding: "I feel like the reason I brought it up was mainly to express the frustration with Bibi and him firing the one guy that was somewhat, you know, attempting at moderation. It wasn't really so much to say that Gallant is a good guy. I shouldn't have used that word. That was a bad choice on my part,

[46] H3 Podcast, *Post Election Cope Stream – H3 Show #77* (Nov. 6, 2024) at 3:38-3:56, *available at*: https://www.youtube.com/live/8aBch1GPY08?si=eFTvmQ-5rxsqQAUh&t=218.

[47] Tamar Michaelis, Tara John and Mick Krever, CNN, "Netanyahu fires Israeli Defense Minister Yoav Gallant, after months of clashes over war and politics" (Nov. 6, 2024), *available at*: https://www.cnn.com/2024/11/05/middleeast/netanyahu-yoav-gallant-intl-latam

considering stuff that he has said that I was not even thinking of."[48]

iv. Denims claims that propaganda does not require lying. Ex. K at 2:09:26-33. The Oxford English Dictionary disagrees and defines propaganda as "[t]he systematic dissemination of information, esp. in a biased or misleading way, in order to promote a particular cause or point of view."[49]

v. Denims repeatedly invokes the online content creator Ostonox without providing any further explanation on how it is relevant. Ex. K at 2:10:55-2:11:06, 3:39:22-28.

vi. Denims repeatedly makes the misleading claim that Ethan performed a Nazi salute. Ex. K at 2:20:31-33, 3:49:13-16. Denims intentionally omits the fact that Ethan was making fun of Elon Musk performing a Nazi salute at President Trump's inauguration.[50]

vii. After Ethan refutes Hasan's contentions about why the Houthis hijacked the *Galaxy Leader* (Ex. K at 2:33:32-2:35:10), Denims claims that half of what Ethan showed is false without identifying the falsehoods – let alone demonstrating how they were false. *Id.* at 2:35:11-27.

viii. Denims claims that it is impossible that 60% of Israelis are from the Middle East. Ex. K at 2:38:49-2:39:08. Unsurprisingly, Denims' statement is baseless. A 2019 peer-reviewed study found that well over 55% of Israeli Jews are either fully or partially Mizrahi, Sephardi or Ethiopian heritage.[51] More recent data from the Jewish People Policy Institute confirms that a substantial

[48] Ethan Klein, *Hasan Piker Is A Weaselly Little Liar* (Nov. 8, 2024), *available at*: https://youtu.be/telKFaTvQqU?si=mSFC2pB9DHgc48yi

[49] Oxford English Dictionary, " Propaganda" *available at*: https://www.oed.com/dictionary/propaganda_n?tl=true

[50] H3 Podcast, *Content Nuke: Markiplier – H3 Show #103* (Jan. 29, 2025) at 36:20-56:27, *available at*: https://www.youtube.com/watch?v=oDdnL6Pd9qU&t=1415s

[51] Lewis-Epstein, N. & Cohen, Y., Journal of Ethnic and Migration Studies, "Ethnic origin and identity in the Jewish population of Israel" (Vol. 45, No. 8, 2019) at 1327-1346, *available at*: https://doi.org/10.1080/1369183X.2018.1440490.

majority of Israelis self-identify as Mizrahi or mixed origin.[52]

ix. Denims misleadingly claims that the Houthis were designated as a terrorist organization only after Hasan's January 16, 2024 interview with Al-Haddad. Ex. K at 2:47:05-25. Prior to February 2021, the Houthis were designated as a Specially Designated Global Terrorist ("SDGT") and a Foreign Terrorist Organization ("FTO"). In February 2021, President Biden delisted the Houthis from both lists. On January 17, 2024 (*i.e.*, the day after Hasan's interview with Al-Haddad), President Biden redesignated the Houthis as a SDGT.[53]

x. After showing excerpts of Hasan's interview with Al-Haddad (Ex. K at 2:48:04-2:49:50), Denims claims that there was a mistranslation during the interview. It should come as no surprise that Denims fails to identify what was mistranslated – let alone correct the translation. *Id.* at 2:49:51-2:50:01.

xi. After the section where Ethan critiques Hasan's coverage of the release of Israeli hostages (Ex. K at 3:28:23-3:29:49), Denims claims that YouTube does not require censoring such footage and implies Ethan is doing so to intentionally obfuscate the facts. She also makes the outlandish claim that Hamas treated the Israeli hostages well. *Id.* at 3:29:50-3:33:48. All of this is false. In order for TEI to monetize *The Nuke*, YouTube required that footage of hostages (such as the release of Israeli hostages and the Houthi takeover of the *Galaxy Leader*) be censored. Further, it is well documented that Hamas killed, sexually assaulted, tortured and starved the Israeli hostages – including forcing them to participate in grotesque propaganda at gunpoint. These abuses are confirmed by multiple human rights organizations:

1. Human Rights Watch documented unlawful

[52] Jewish People Policy Institute, *Ethnic Self-Identification Survey Findings*, available at: https://ij.jppi.org.il/english/videos/Yemini.

[53] Jennifer Hansler, CNN "Biden administration re-designates Houthis as Specially Designated Global Terrorists" (Jan. 17, 2024), *available at*: https://www.cnn.com/2024/01/16/politics/biden-administration-houthis-global-terrorist-entity

abduction, extrajudicial executions, torture, coerced media appearances, and sexual violence.[54]

2. Amnesty Internation detailed systematic beatings, humiliation, denial of medical care and psychological abuse of both hostages and their families.[55]

3. The United Nations Human Rights Council found that Palestinian armed groups engaged in war crimes and, in certain cases, crimes against humanity.[56]

xii. Later, during the section where Ethan points out that Hamas ordered the hostages to "keep waving" (Ex. K at 3:35:17-34), Denims claims that the individual who said "keep waving" directed the statement to someone other than the hostages. *Id.* at 3:35:35-40. Once again, Denims' statement is false. In the video (which Denims claims to have seen), it is evident the statement was directed at the hostages because they immediately start waving in response.[57]

[54] Human Rights Watch, "'I Can't Erase All the Blood from My Mind': Palestinian Armed Groups' October 7 Assault on Israel (July 17, 2024), *available at*: https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel; *see also* Human Rights Watch, "Questions and Answers: Hamas-Led Armed Groups' October 7, 2023 Assault on Israel, 'Sexual and Gender-Based Violence'" (July 17, 2024), *available at*: https://www.hrw.org/news/2024/07/17/questions-and-answers-hamas-led-armed-groups-october-7-2023-assault-israel.

[55] Amnesty International, "Israel/OPT: Amenesty International's Research into Hamas-Led Attacks of 7 October 2023 and Treatment of Hostages" (Dec. 2, 2024), *available at*: https://www.amnesty.org/en/documents/mde15/8803/2024/en/;

[56] United Nations Human Rights Council, "Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel" (June 12, 2024), *available at*: https://www.ohchr.org/en/documents/country-reports/ahrc5626-report-independent-international-commission-inquiry-occupied

[57] India Today, " 'Keep Waving,' Hamas terrorists order hostages during release" (Nov. 23, 2023), *available at*: https://www.indiatoday.in/world/video/keep-waving-hamas-terrorists-order-hostages-during-release-2468140-2023-11-27; Jerusalem Post, "Hamas tells hostages to 'keep waving' in propaganda video of handoff in (continued).

xiii. Denims repeatedly claims that *The New York Times* and President Biden had to retract claims of rape occurring on October 7th. Ex. K at 3:42:49-3:43:40, 3:45:53-3:46:19, 3:46:43-3:48:06. This is false. *The New York Times* did not retract its article about rapes occurring on October 7th.[58] While President Biden did clarify his statement that forty babies were beheaded on October 7th,[59] he never retracted the claims of rape occurring on October 7th.[60]

xiv. After showing an excerpt of United Nations report on sexual violence occurring on October 7th (Ex. K at 3:44:41-3:45:33),[61] Denims

Gaza" (Nov. 26, 2023), *available at*: https://www.jpost.com/middle-east/article-775156

[58] Jeffrey Gettleman, Anat Schwartz and Adam Sella, The New York Times, "'Screams Without Words': How Hamas Weaponized Sexual Violence on Oct. 7" (December 28, 2023 and updated March 25, 2024), *available at*: https://www.nytimes.com/2023/12/28/world/middleeast/oct-7-attacks-hamas-israel-sexual-violence.html?smid=url-share; Elias Atienza, CheckYourFact, "Fact Check: Did The New York Times Retract Its Story on Hamas and Sexual Violence?" (Jan. 5, 2024), *available at*: https://checkyourfact.com/2024/01/05/fact-check-new-york-times-story-hamas/#google_vignette

[59] Peter Alexander, Summer Concepcion and Megan Lebowitz, NBC News, "White House clarifies Biden's claim he saw photos of terrorists beheading children in Israel-Hamas war" (Oct. 11, 2023 updated Oct. 12, 2023), *available at*: https://www.nbcnews.com/politics/white-house/biden-deliver-remarks-roundtable-jewish-community-leaders-rcna119865

[60] *See e.g.*, Darlene Superville, Associated Press, "Biden calls reports of Hamas raping Israeli hostages 'appalling,' says world can't look away" (Dec. 5, 2023), *available at*: https://apnews.com/article/biden-hamas-rape-israel-sexual-violence-1af759b6ebeb017a10ad91182350a1e7?utm_source=copy&utm_medium=share; Kevin Liptak, CNN, "Biden decries Hamas sexual assaults and says they must be forcefully condemned" (Dec. 5, 2023), *available at*: https://edition.cnn.com/2023/12/05/politics/biden-condemns-hamas-sexual-assaults-democrats; Cheyenne Haslett, ABC News, "Biden speaks of Oct. 7 and commitment to getting hostages home at Hanukkah reception" (Dec. 16, 2024), *available at*: https://abcnews.go.com/Politics/biden-speaks-oct-7-commitment-hostages-home-hanukkah/story?id=116851278

[61] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, "Mission report: Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank: 29 January – 14 February 2024", *available at*: (continued).

claims the report was discredited without any supporting evidence. *Id.* at 3:45:34-40. Not only is Denims' statement cruelly and grotesquely false, the United Nations report was affirmed by multiple credible sources, such as:

1. Humans Right Watch cited the United Nations' report in Human Rights Watch's own report – which also independently found evidence of sexual and gender-based violence during the October 7th attacks.[62]

2. Physicians for Human Rights Israel confirmed it would rely on the United Nations report.[63]

3. In February 2024, the Association of Rape Crisis Centers in Israel published a report that aligns with the findings of the United Nations report.[64]

4. The United Kingdom's Minister for the Middle East cited the United Nations' report at the UN Security Council that there was "reasonable grounds" and "clear and convincing" evidence of sexual and gender-based violence occurring on October 7th.[65]

https://news.un.org/en/sites/news.un.org.en/files/atoms/files/Mission_report_of_SRSG_SVC_to_Israel-oWB_29Jan_14_feb_2024.pdf

[62] Human Rights Watch, "Questions and Answers: Hamas-Led Armed Groups' October 7, 2023 Assault on Israel 'Sexual and Gender-Based Violence" (July 17, 2024), *available at*: https://www.hrw.org/news/2024/07/17/questions-and-answers-hamas-led-armed-groups-october-7-2023-assault-israel;

[63] Physicians for Human Rights Israel, "Clarification Regarding Gender-Based Violence in the Context of October 7 Events" (May 23, 2024), *available at*: https://www.phr.org.il/en/clarification/.

[64] Association of Rape Crisis Centers in Israel, "Silent Cry – Sexual Violence Crimes on October 7" (Feb. 2024), *available at*: https://www.1202.org.il/en/information-and-data/reports-and-articles/october-7-sexual-violence-crimes-report/

[65] Ahmad, Lord, "The UK is deeply concerned by Special Representative Patten's findings of sexual violence on 7 October: UK statement at the UN Security Council" (March 11, 2024), *available at*: https://www.gov.uk/government/speeches/the-uk-is-deeply-concerned-by-special-representative-pattens-findings-of-sexual-violence-on-7-october-uk-statement-at-the-un-security-council

5. The European Union Council found that Hamas committed systematic sexual violence as a weapon of war on October 7th.[66]

6. The International Criminal Court prosecutor announced grounds to charge Hamas leadership with crimes against humanity based upon on systematic rapes and sexual assaults occurring on October 7th.[67]

xv. When Ethan discusses Frogan's statements that she wished soldiers in the United States military get PTSD and lose their health insurance, Denims claims Frogan apologized for the comment immediately afterwards. Ex. K at 4:00:23-43. This is false three times over: not only did Frogan fail to immediately apologize, she never apologized and even doubled down on the statement.

1. On or shortly before October 16, 2024, Frogan made the aforementioned statement.[68]

2. On or shortly before October 20, 2024, Frogan doubled down on her statement by reacting to it, giggling and claiming her statement was "based."[69]

3. Only after Frogan was publicly excoriated for her cruel comments, Frogan made a post on X that attempted to justify her statement. At the end of her post, Frogan tepidly walked back her vicious attack on veterans by adding: "i realize that wishing people harm isn't the best way to talk about these issues and that i could have talked about these topics in a more sensitive way."[70]

[66] Reuters, "EU sanctions Hamas wings over sexual violence on Oct. 7" (April 12, 2024), *available at*: https://www.reuters.com/world/eu-sanctions-hamas-wings-over-sexual-violence-oct-7-2024-04-12/

[67] Khan, K. "Statement of ICC Prosecutor Karim A.A. Khan KC on applications for arrest warrants in the situation in the State of Palestine" (May 2024), *available at:* https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state

[68] *See* N1ghtm4re, "Frogan wishes PTSD on US Soldiers and no Health Care" (Oct. 16, 2024), *available at*: https://youtu.be/ST23KqsB_uI?si=x5dTqmIhWaCVbEWx

[69] *See* https://x.com/nicholasdeorio/status/1848145789006074322

[70] *See* https://x.com/fr0gan/status/1848179969312051507

(original spelling).

xvi. Also, during the same section, Denims attempts to deflect criticism from Frogan by claiming she was emotional due to a recent article about the IDF bulldozing Palestinians. Ex. K at 4:09:28-4:12:57. This is false twice over. First, the purported video documenting the alleged bulldozing of Palestinians was debunked as being filmed in Egypt a decade prior.[71] Second, the news reports on this purported event occurred in December 2023 – *i.e.*, ten months prior to Frogan's statements in October 2024.

xvii. After Ethan discusses Frogan offering to make a cake recreating 9/11, Denims claims that Frogan was given a thirty-day ban for doing so. Ex. K at 4:13:33-38. This is false. Frogan was given a thirty-day ban for her involvement in the racial tier list at TwitchCon 2024. This is evidenced by the fact that all the other panelists – including Denims – received the same punishment at the same time.[72]

xviii. Denims makes the completely unsubstantiated claim that – like Frogan and Hasan – Ethan also made jokes about 911. Ex. K at 4:14:26-34.

xix. Denims also makes the unsubstantiated claim that Ethan denied the IDF engaged in systematic rape. Ex. K at 4:23:30-45. This is false. Ethan acknowledged that the IDF engaged in sexual violence, exhibited genuine curiosity about learning more, evaluated additional sources, repeatedly stated that he was not denying the claim and even Hasan admitted that he misspoke by asserting such claims of systemic rape were well-documented.[73]

[71] France24, "This videos does not show Israel bulldozing Palestinians at Gaza's Kamal Adwan Hospital" (Dec. 19, 2023) *available at*: https://f24.my/A0b9

[72] Alyssa Mercante, Kotaku, "Twitch Bans Several Arab Streamers Following 'Habibi' Ratings Panel At TwitchCon" (Oct. 21, 2024), *available at*: https://kotaku.com/twitch-ban-fr0gan-denims-capri-raffoul-adl-ethan-klein-1851677969

[73] H3 Podcast, *Israel vs Gaza – Leftovers #61* (Oct. 12, 2023) at 3:37:33-3:45:03 *available at*: https://www.youtube.com/live/JFznOHunD_c?si=b6N7tJgP_lUekAyb&t=13053

xx. After Ethan criticizes Frogan's podcast for stating that Israelis cannot "claim" hummus, Denims states that the podcast's critique was not that Israelis "claim" hummus, but they claim to have "invented" it. Ex. K at 4:27:52-4:28:53. This is false. As made clear by the podcast episode itself, the participants (including Frogan) never mentioned "inventing" hummus; rather, they took issue with Israelis "claiming" hummus.[74]

xxi. Denims – who is not Jewish – makes the grotesquely bigoted statement that it is antisemitic to associate Zionism (*i.e.*, the Jewish right to self-determination in their ancestral homeland)[75] with Judaism. Ex. K at 4:33:48-4:34:02. Shortly thereafter, a chatter confronts Denims by explaining that approximately 90% of Jews are Zionists. Without any substantiation, Denims claims that this was derived from a poll with a sample size of twenty-six and that one-third of Jews think Israel is committing genocide in Gaza. *Id.* at 4:34:45-4:35:18. Denims' assertion is completely and totally baseless.

1. A 2019-2020 Pew Research Center survey of 4,718 American Jews found 82% considered caring about Israel to be "essential" or "important" to what it means to be Jewish.[76]

[74] Ayyrabs Podcast, *Living Through a War in Lebanon | ft, @DoNotWorryPodcast* (Oct. 2, 2024), at 42:25-44:10 *available at:* https://youtu.be/GgUNY5qjbPc?si=ajp1sN_oGNQcbv4Z&t=2545

[75] A "Zionist" is someone who believes in the right of Jewish self-determination in their ancestral homeland. It is a broad umbrella that includes those who "consider the rights of Palestinians to be fundamental to Zionism's success." Frequently, "policies carried out by the Israeli government that harm and suppress Palestinians are often conflated by anti-Zionists as representing Zionism as a whole." This conflation has "a marginalizing effect on Jews" and is often "indistinguishable from anti-Semitism in its expression" because it uses "anti-Semitic tropes." Encyclopedia Brittanica, "Zionism" *available at*: https://www.britannica.com/topic/Zionism

[76] Justin Nortey, Pew Research Center "U.S. Jews have widely differing views on Israel" (May 21, 2021) *available at*: https://www.pewresearch.org/short-reads/2021/05/21/u-s-jews-have-widely-differing-views-on-israel/; Pew Research Center, "Jewish Americans in 2020, Appendix A: Survey methodology" (May 11, 2021) *available at*: https://www.pewresearch.org/religion/2021/05/11/appendix-a-survey-methodology-4-2/

2. In another poll conducted in December 2024 of 800 American-Jewish adults, "70% think anti-Zionist movements are antisemitic by definition" and only "9% strongly disagree with that statement."[77]

m. On the exceedingly rare instances where Denims does cite extrinsic sources, Denims (unsurprisingly) completely misrepresents the source material. This further evidences she was utterly unprepared to provide criticism of *The Nuke* and the extent of her criticism suffers as a result. Below are some notable examples:

i. During the section where Ethan discusses the forced expulsion of Mizrahi Jews from Arab countries, Denims makes the maliciously ahistorical assertion that Jews were treated well in Arab countries – even claiming to be well read on the subject. It is evident that Denims fundamentally fails to grasp the horrors Jews endured in Arab countries.

1. For example, Denims claims that Vichy France (*i.e.*, Nazi occupied France) sent Moroccan Jews to Israel. To "support" her claim, Denims pulls up the Wikipedia article entitled "History of Jews in Morocco" (the Wikipedia Article") (but strategically conceals the Wikipedia Article's title).[78] Ex. K at 1:51:20-1:58:13. The Wikipedia Article refutes her "well read" assertion: Vichy France sent Moroccan Jews to Europe to be exterminated and not Israel.

2. Further, it is painfully obvious that Denims either did not read the Wikipedia Article or failed to understand it. The Wikipedia Article documents 1,000 years of Moroccan Jews being massacred, subjugated under the

[77] The Jewish Majority, "New Poll: Jewish Voice for Peace Does Not Represent Vast Majority of U.S. Jewish Community" (February 12, 2025), *available at*: https://img1.wsimg.com/blobby/go/2921c434-f7d7-43f4-ade6-3a5591444c85/downloads/97dc308b-4559-4e42-a55e-53c77f75c044/Press%20release%202.11.2025.pdf?ver=1739292818681

[78] Wikipedia, "History of Jews in Morocco" *available at*: https://en.wikipedia.org/wiki/History_of_the_Jews_in_Morocco. In a moment of great irony, Denims later critiques *The Nuke's* citations to Wikipedia for Nasrallah's antisemitic statements. Ex. K at 2:35:27-38.

dhimmi apartheid system (including forced to pay *jizya*, wear certain clothing, live in certain areas, employ restrictive modes of transportation and prohibited from engaging in certain types of work),[79] rape, state sanctioned abuse, destruction of synagogues, ethnic cleansing and forced conversion. One of the most tragically absurd episodes documented in the Wikipedia Article involved the Sultan Sulaiman finally allowing the Jews of Fez to wear shoes. So many Jews were slaughtered by their Arab neighbors as a result that the Jews of Fez begged the Sultan to repeal the edict – which he did.

ii. Denims makes the incendiary claim that Ethan is scared of Arabic and the Muezzin call. She frantically tries to find the clip to support her assertion, but gives up. Ex. K at 2:54:25-2:55:24. After someone in her chat sends her a link, she eagerly plays the clip. When it is evident that her claim is a grossly inaccurate mischaracterization, Denims' excitement evaporates as she silently moves on from the point. *Id.* at 2:56:26-2:57:24.

n. During her "group viewing session," *The Nuke* takes up approximately three-quarters of the screen for Denims' "group viewing session" – while Denims sequesters herself to the right-hand quarter to deemphasize her presence. Denims' objective was to provide a large and unobstructed view of *The Nuke* to her audience – which further emphasizes her primary purpose was to provide a substitute for the original.

o. To be certain, Denims (albeit infrequently and inconsistently) makes a highly transformative use of *The Nuke*. Where *The Nuke* seeks to expose how Hasan radicalizes people online to be antisemitic and anti-Israeli, Denims attempts to use *The Nuke* for the exact opposite purpose: to radicalize her audience to be antisemitic and anti-Israeli, along with defending Hasan. The transformative

[79] *See also* Bernard Lewis, *The Jews of Islam* (1984); Efraim Karsh, *Islamic Imperialism: A History* (2006); Mark R. Cohen, *Under Crescent and Cross: The Jews in the Middle Ages* (1994); Bat Ye'or, *The Dhimmi: Jews and Christians Under Islam* (1985).

nature of these moments are undermined (if not erased) by showing far more of *The Nuke* than is necessary to achieve this purpose. Some examples are identified above, but also include:

i. Denims will repeatedly glorify terrorism and terrorists, such as: (1) glorifying the Houthis' footage of the hijacking of the *Galaxy Leader* (Ex. K at 2:36:17-46); (2) glorifying the leader of Hezbollah, Hassan Nasrallah (*id.* at 3:18:21-3:19:17); (3) attacking a chatter critiquing her glorification of Hezbollah (*id.* 3:22:15-3:23:08); (4) excusing the homophobia of terrorist groups (*id.* at 3:36:54-3:37:39); (5) glorifying Hamas propaganda (*id.* at 3:35:41-3:36:11); and (6) excusing the antisemitism of terrorists (*id.* at 2:23:12-2:25:18, 2:27:41-2:29:00, 3:12:48-3:13:07, 3:13:15-36).

ii. Denims also attempts (albeit unsuccessfully) to excuse Hasan's hypocrisies, such as: (1) his highly consumerist spending (Ex. K at 3:18:01-14); and (2) his defense of Hamas (*id.* at 3:49:17-23).

iii. Denims repeatedly attempts to justify her own antisemitism and – even more absurd – paint Ethan as an antisemite. Ex. K at 2:59:19-27, 4:29:11-31, 4:29:53-4:30:05, 4:33:48-4:35:18, 4:36:48-4:37:12, 4:46:12-34. In one instance, Denims goes on a long tangent by showing a clip in its entirety of Norman Finkelstein[80] with little commentary to justify her own bigotry.

[80] Finkelstein is best known for his discredited book *The Holocaust Industry* and for DePaul University denying him tenure on the grounds of unprofessional conduct. He is widely dismissed by academics and historians as an idealogue. *See* Norman G. Finkelstein, *Brief Comments on the Nation's "Rebuttal" to My Exchange with Omer Bartov*, NormanFinkelstein.com (2000), *available at* https://web.archive.org/web/20090321185503/http://normanfinkelstein.com/article.php?pg=3&ar=165; Omer Bartov, New York Times "A Tale of Two Holocausts," (Aug. 6, 2000) *available at:* https://archive.nytimes.com/www.nytimes.com/books/00/08/06/reviews/000806.06bartovt.html.; Wikipedia, "The Holocaust Industry," *available at*: https://en.wikipedia.org/wiki/The_Holocaust_Industry. Debra Cassens Weiss, American Bar Association Journal, "No Tenure for DePaul's Finkelstein; Harvard Law Prof's 'Tempest' a Factor" (June 11, 2007), *available at*: (continued).

Id. at 2:22:44-2:29:00.

iv. Denims also caries water for Clancy. When Ethan critiques Clancy's obsession with e-girls on the Twitch platform, Denims seeks to excuse this lecherous behavior by making the tone-deaf claim that Clancy's obsession with e-girls is a sign of his virility. Ex. K at 3:51:04-3:53:45.

p. Finally, Denims' use of *The Nuke* was highly commercial. This is evidenced by:

i. Her statement: "***Well guys, if you enjoyed not giving any views to that terrible video, follow, subscribe, throw a prime, if you like the content, if you enjoyed your time here***." Ex. K at 5:07:45-58.

ii. On 174 separate occasions during her "group viewing session" of *The Nuke*, Denims receives paid subscriptions, donations and bits. Each of these paid subscriptions and donations would result in a graphic being superimposed over *The Nuke*.

iii. Denims ran advertisements during her "group viewing session" of *The Nuke* and received advertising revenue as a result.

iv. On her Twitch page where Denims' "group viewing session" was located, Denims placed buttons soliciting paid subscriptions and donations beneath the video of Denims' "group viewing session" of *The Nuke*.

v. The clear coordination between Denims and the H3Snark Mods (and others) to direct as many viewers to her "group viewing session" of *The Nuke* to avoid giving views and advertising revenue to TEI.

https://www.abajournal.com/news/article/no_tenure_for_depauls_finkelstein_harvard_law_profs_tempest_a_factor; David Cesarani, Times Higher Educ. "Finkelstein's Final Solution" (Aug. 4, 2000), *available at*: http://www.timeshighereducation.co.uk/books/finkelsteins-final-solution/155953.article; "Academic Freedom and Palestine-Israel: The Case of Beyond Chutzpah," 35 J. Palestine Stud. 94 (2006), *available at:* https://www.palestine-studies.org/sites/default/files/attachments/jps-articles/jps.2006.35.2.85.pdf.

71. As to the second fair use factor, the fact *The Nuke* was released a minute prior to Denims' "group viewing session" does not weigh in her favor. Further, while containing numerous documentary and factual elements, *The Nuke* contains numerous creative elements, which weigh against fair use.

72. As to the third fair use factor, this factor weighs heavily against fair use. It is readily apparent Denims' use was excessive for any potential criticism of *The Nuke* – particularly in light of minimal level of commentary and highly commercial nature of Denims' "group viewing session." This is especially true when Denims repeatedly provides brief statements (many of which have little to not critical bearing on *The Nuke*) after showing long unadulterated segments of *The Nuke.*

73. The fourth (and most important) fair use factor weighs the most heavily against fair use. It is readily apparent that Denims intended (and succeeded) to provide a market substitute for *The Nuke* for the reasons set forth below:

a. The statements identified in Paragraphs 70.a and 70.p.i above.

b. Showing *The Nuke* in its entirety with minimal commentary.

c. Starting her "group viewing session" a minute after *The Nuke* was released to the public when the interest in *The Nuke* was at its apex.

d. The First Inducement Post, Second Inducement Post and Third Inducement Post by the H3Snark Mods.

e. Due to Denims' siphoning the audience for *The Nuke* to her "group viewing session," TEI lost views and advertising revenue it would ordinarily receive from the individuals who watched Denims' "group viewing session" instead of *The Nuke*.

f. Denims' conduct did become widespread. Several other members of Hasan's Waiting Room conducted a "group viewing session" of *The Nuke* immediately after its release – which resulted in further lost views and lost advertising revenue to TEI.

FIRST CLAIM FOR RELIEF

(For Direct Copyright Infringement – Against Denims)

74. TEI incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

75. TEI is the sole of the of the copyrights in the *Countdown Episode* and *The Nuke*.

76. TEI registered its copyrights in the *Countdown Episode* and *The Nuke* with the USCO.

77. Denims accessed: (1) the *Countdown Episode* from TEI's YouTube channel, H3Podcast; and (2) *The Nuke* from TEI's YouTube channel, h3h3Productions.

78. TEI did not grant any license, authorization or consent for Denims to exploit the *Countdown Episode* or *The Nuke* in any manner. Rather, Denims' "group viewing session" of the *Countdown Episode* and *The Nuke* constituted an unauthorized reproduction, public performance and derivative work of the *Countdown Episode* and *The Nuke* in violation of TEI's rights as set forth in 17 U.S.C. Section 106.

79. Due to Denims' acts of copyright infringement, TEI has suffered damages in an amount to be established at trial.

80. Due to Denims' acts of copyright infringement, Denims obtained profits she would not have realized but for her infringement of TEI's copyrights in the *Countdown Episode* and *The Nuke*.

81. Denims' acts of copyright infringement were done with actual or constructive knowledge of TEI's rights, such that said acts of copyright infringement were willful, intentional, malicious and/or taken with reckless disregard for TEI's rights.

SECOND CLAIM FOR RELIEF

(Contributory Copyright Infringement – Against The H3Snark Mods)

82. TEI incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

83. The H3Snark Mods (and each one of them) knew Denims' "group viewing session" would infringe TEI's copyrights in the *Coundown Episode* and *The Nuke*.

84. The H3Snark Mods (and each one of them) are responsible for the First Inducement Post, Second Inducement Post and Third Inducement Post.

85. The First Inducement Post, Second Inducement Post and Third Inducement Post induced, caused and/or materially contributed to Denims' infringement of the *Countdown Episode* and *The Nuke*.

86. Due to the H3Snark Mods' contributory infringement, TEI has suffered damages in an amount to be established at trial.

87. The H3Snark Mods' acts of contributory infringement were made with actual or constructive knowledge of TEI's rights, such that said acts of contributory infringement were willful, intentional, malicious and/or taken with reckless disregard for TEI's rights.

PRAYER FOR RELIEF

WHEREFORE, TEI prays for judgment against Denims and the H3Snark Mods (collectively, "Defendants") as follows:

a. That TEI be awarded Defendants' (and each of their) profits, plus TEI's losses, attributable to Defendants' infringement of the *Countdown Episode*, the exact sum to be proven at the time of trial.

b. That TEI be awarded Defendants' (and each of their) profits, plus TEI's losses, attributable to Defendants' infringements of *The Nuke*, the exact sum to be proven at the time of trial; or, if elected, statutory damages in the amount of $150,000 as available under 17 U.S.C. Section 504;

c. TEI be awarded it reasonable attorneys' fees and costs under 17 U.S.C.

Section 505;

d. TEI be awarded pre-judgment interest as allowed by law; and

e. TEI be awarded such further relief as the Court deems proper.

Dated: June 17, 2025 **HEAH BAR-NISSIM LLP**

By _____
ROM BAR-NISSIM
Attorneys for Plaintiff Ted Entertainment, Inc.

JURY TRIAL DEMAND

TEI demands a jury trial on all issues so triable pursuant to Federal Rule of Civil Procedure 38 and the 7th Amendment to the United State Constitution.

Dated: June 17, 2025 **HEAH BAR-NISSIM LLP**

By _____
ROM BAR-NISSIM
Attorneys for Plaintiff Ted Entertainment, Inc.